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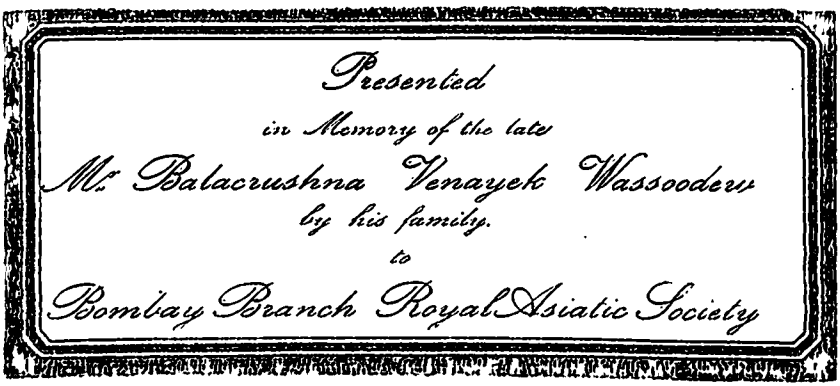

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THE

HISTORY

OF THE

DECLINE AND FALL

OF THE

ROMAN EMPIRE.

By EDWARD GIBBON, Esq.

IN TWELVE VOLUMES.

VOL. VIII.

A NEW EDITION.

LONDON

PRINTED FOR LACKINGTON, ALLEN, AND CO.
W. OTRIDGE, R. SCHOLEY, AND G. COWIE AND CO. LONDON;
AND FOR P. HILL, DOIG AND STIRLING, AND
OLIVER AND BOYD, EDINBURGH.

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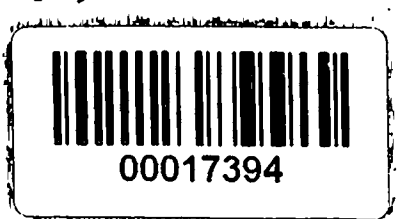

EDINBURGH:
Printed by James Ballantyne & Co.

PREFACE.

I Now discharge my promise, and complete my design of writing the History of the Decline and Fall of the Roman Empire, both in the West and the East. The whole period extends from the age of Trajan and the Antonines, to the taking of Constantinople by Mahomet the second; and includes a review of the Crusades and the state of Rome during the middle ages. Since the publication of the first * volume, twelve years have elapsed; twelve years, according to my wish, "of health, of leisure, and of perseverance." I may now congratulate my deliverance from a long and laborious service, and my satisfaction will be pure and perfect, if the public favour should be extended to the conclusion of my work.

* Alluding to the Quarto Edition, in which size the Work was originally published.

It was my first intention to have collected, under one view, the numerous authors, of every age and language, from whom I have derived the materials of this history; and I am still convinced that the apparent ostentation would be more than compensated by real use. If I have renounced this idea; if I have declined an undertaking which had obtained the approbation of a master-artist *, my excuse may be found in the extreme difficulty of assigning a proper measure to such a catalogue. A naked list of names and editions would not be satisfactory either to myself or my readers; the characters of the principal Authors of the Roman and Byzantine History have been occasionally connected with the events which they describe; a more copious and critical inquiry might indeed deserve, but it would demand an elaborate volume, which might swell by degrees into a general library of historical writers. For the present I shall content myself with renewing my serious protestation, that I have always endeavoured to draw from the fountain-head;

* See Dr Robertson's Preface to his History of America.

that my curiosity, as well as a sense of duty, has always urged me to study the originals; and that, if they have sometimes eluded my search, I have carefully marked the secondary evidence, on whose faith a passage or a fact were reduced to depend.

I shall soon revisit the banks of the lake of Lausanne, a country which I have known and loved from my early youth. Under a mild government, amidst a beauteous landscape, in a life of leisure and independence, and among a people of easy and elegant manners, I have enjoyed, and may again hope to enjoy, the varied pleasures of retirement and society. But I shall ever glory in the name and character of an Englishman: I am proud of my birth in a free and enlightened country; and the approbation of that country is the best and most honourable reward of my labours. Were I ambitious of any other patron than the Public, I would inscribe this work to a Statesman, who, in a long, a stormy, and at length an unfortunate administration, had many political opponents, almost without a personal enemy: who has retained, in his fall

from power, many faithful and disinterested friends; and who, under the pressure of severe infirmity, enjoys the lively vigour of his mind, and the felicity of his incomparable temper. Lord North will permit me to express the feelings of friendship in the language of truth: but even truth and friendship should be silent, if he still dispensed the favours of the crown.

In a remote solitude, vanity may still whisper in my ear, that my readers, perhaps, may inquire, whether in the conclusion of the present work, I am now taking an everlasting farewell. They shall hear all that I know myself, all that I could reveal to the most intimate friend. The motives of action or silence are now equally balanced; nor can I pronounce in my most secret thoughts, on which side the scale will preponderate. I cannot dissemble that Six ample Quartos must have tried, and may have exhausted the indulgence of the Public; that in the repetition of similar attempts, a successful author has much more to lose, than he can hope to gain; that I am now descending into the vale

of years; and that the most respectable of my countrymen, the men whom I aspire to imitate, have resigned the pen of history about the same period of their lives. Yet I consider that the annals of ancient and modern times may afford many rich and interesting subjects; that I am still possessed of health and leisure; that by the practice of writing, some skill and facility must be acquired; and that, in the ardent pursuit of truth and knowledge, I am not conscious of decay. To an active mind, indolence is more painful than labour; and the first months of my liberty will be occupied and amused in the excursions of curiosity and taste. By such temptations I have been sometimes seduced from the rigid duty even of a pleasing and voluntary task: but my time will now be my own; and in the use or abuse of independence, I shall no longer fear my own reproaches or those of my friends. I am fairly entitled to a year of jubilee: next summer and the following winter will rapidly pass away; and experience only can determine whether I shall still prefer the freedom and variety of study to the design and composition

of a regular work, which animates while it confines, the daily application of the Author. Caprice and accident may influence my choice; but the dexterity of self-love will contrive to applaud either active industry, or philosophic repose.

DOWNING STREET,
May 1, 1788.

P. S. I shall embrace this opportunity of introducing two *verbal* remarks, which have not conveniently offered themselves to my notice. 1. As often as I use the definitions of *beyond* the Alps, the Rhine, the Danube, &c. I generally suppose myself at Rome, and afterwards at Constantinople; without observing whether this relative geography may agree with the local, but variable, situation of the reader, or the historian. 2. In proper names of foreign, and especially of oriental origin, it should be always our aim to express in our English version, a faithful copy of the original. But this rule, which is founded on a just regard to uniformity and truth, must often be relaxed; and the exceptions will be limited or enlarged by the custom of the language and the taste of the interpreter. Our alphabets may be often defective: a harsh sound, an uncouth spelling, might offend the ear or the eye of our countrymen; and some words notoriously corrupt are fixed, and, as it were, naturalized in the vulgar tongue. The prophet *Mohammed* can no

longer be stripped of the famous, though improper appellation of Mahomet: the well-known cities of Aleppo, Damascus, and Cairo, would almost be lost in the strange descriptions of *Haleb*, *Damashk*, and *Al Cahira*: the titles and offices of the Ottoman empire are fashioned by the practice of three hundred years: and we are pleased to blend the three Chinese monosyllables, *Con-fu-tzee*, in the respectable name of Confucius, or even to adopt the Portuguese corruption of Mandarin. But I would vary the use of Zoroaster and *Zerdusht*, as I drew my information from Greece or Persia: since our connection with India, the genuine *Timour* is restored to the throne of Tamerlane: our most correct writers have retrenched the *Al*, the superfluous article, from the Koran; and we escape an ambiguous termination, by adopting *Moslem* instead of Musulman, in the plural number. In these, and in a thousand examples, the shades of distinction are often minute; and I can feel where I cannot explain, the motives of my choice.

☞ At the end of the History, the reader will find a General Index to the whole Work, which has been drawn up by a person frequently employed in works of this nature.

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THE

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CHAP. XLIV.

*Idea of the Roman jurisprudence.—The laws of the kings—The twelve tables of the decemvirs—The laws of the people—The decrees of the senate—The edicts of the magistrates and emperors—Authority of the civilians—Code, pandects, novels, and institutes of Justinian—*I. *Rights of persons*—II. *Rights of things*—III. *Private injuries and actions*—IV. *Crimes and punishments.*

The civil or Roman law.

THE vain titles of the victories of Justinian are crumbled into dust: but the name of the legislator is inscribed on a fair and everlasting monument. Under his reign, and by his care, the civil jurisprudence was digested in the immortal works of the CODE, the PANDECTS, and the

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INSTITUTES;[a] the public reason of the Romans has been silently or studiously transfused into the domestic institutions of Europe,[b] and the laws of Justinian still command the respect or obedience of independent nations. Wise or fortunate is the prince who connects his own reputation with the honour and interest of a perpetual order of men. The defence of their founder is the first cause, which in every age has exercised the zeal and industry of the civilians. They piously commemorate his virtues; dissemble or deny his failings; and fiercely chastise the guilt or folly of the rebels who presume to sully the majesty of the purple. The idolatry of love has provoked, as it usually happens, the rancour of opposition; the character of Justinian has been exposed to the blind vehemence of flattery and invective, and the injustice of a sect (the *Anti-Tribonians*) has refused all praise and merit to the prince, his mi-

[a] The civilians of the darker ages have established an absurd and incomprehensible mode of quotation, which is supported by authority and custom. In their references to the Code, the Pandects, and the Institutes, they mention the number not of the book, but only of the law; and content themselves with reciting the first words of the title to which it belongs; and of these titles there are more than a thousand. Ludewig (Vit. Justiniani, p. 268) wishes to shake off this pedantic yoke; and I have dared to adopt the simple and rational method of numbering the book, the title, and the law.

[b] Germany, Bohemia, Hungary, Poland, and Scotland, have received them as common law or reason; in France, Italy, &c. they possess a direct or indirect influence; and they were respected in England, from Stephen to Edward I. our national Justinian, (Duck. de Usu et Auctoritate Juris Civilis, l. ii, c. 1. 8-15. Heineccius, Hist. Juris Germanici, c. 3, 4, No. 55-124, and the legal Historians of each country.

nisters, and his laws.[c] Attached to no party, interested only for the truth and candour of history, and directed by the most temperate and skilful guides,[d] I enter with just diffidence on the subject of civil law, which has exhausted so many learned lives, and clothed the walls of such spacious libraries. In a single, if possible in a short chapter, I shall trace the Roman jurisprudence from Romulus to Justinian,[e] appretiate the labours of that emperor, and pause to contemplate the principles of a science so important to the peace and happiness of society. The laws of a nation form the most instructive portion of its history; and, although I have devoted myself to write the annals of a declining monarchy, I shall embrace the occasion to

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[c] Francis Hottoman, a learned and acute lawyer of the xvi[th] century, wished to mortify Cujacius, and to please the Chancellor de l'Hopital. His Anti-Tribonianus (which I have never been able to procure) was published in French in 1609: and his sect was propagated in Germany, (Heineccius, Opp. tom. iii, sylloge iii, p. 171-183).

[d] At the head of these guides I shall respectfully place the learned and perspicuous Heineccius, a German professor, who died at Halle in the year 1741, (see his Eloge in the Nouvelle Bibliotheque Germanique, tom. ii, p. 51-64). His ample works have been collected in eight volumes in 4to, Geneva, 1743-1748. The treatises which I have separately used are, 1. Historia Juris Romani et Germanici, Lugd. Batav. 1740, in 8vo. 2. Syntagma Antiquitatum Romanam Jurisprudentiam illustrantium, 2 vols. in 8vo, Traject. ad Rhenum. 3. Elementa Juris Civilis secundum Ordinem Institutionum, Lugd. Bat. 1751, in 8vo. 4. Elementa J. C. secundum Ordinem Pandectarum, Traject. 1772, in 8vo, 2 vols.

[e] Our original text is a fragment de Origine Juris (Pandect. l. i, tit. ii) of Pomponius, a Roman lawyer, who lived under the Antonines, (Heinecc. tom. iii, syll. iii, p. 66-126). It has been abridged, and probably corrupted, by Tribonian, and since restored by Bynkershoek, (Opp. tom. i, p. 279-304).

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breathe the pure and invigorating air of the republic.

Laws of the kings of Rome.

The primitive government of Rome[f] was composed with some political skill, of an elective king, a council of nobles, and a general assembly of the people. War and religion were administered by the supreme magistrate; and he alone proposed the laws, which were debated in the senate, and finally ratified or rejected by a majority of votes in the thirty *curiæ* or parishes of the city. Romulus, Numa, and Servius Tullius, are celebrated as the most ancient legislators; and each of them claims his peculiar part in the threefold division of Jurisprudence.[g] The laws of marriage, the education of children, and the authority of parents, which may seem to draw their origin from *nature* itself, are ascribed to the untutored wisdom of Romulus. The law of *nations* and of religious worship, which Numa introduced, was derived from his nocturnal converse with the nymph Egeria. The *civil* law is attributed to the experience of Servius: he balanced the rights and fortunes of the seven classes of citizens; and guarded, by fifty new regulations, the observance of contracts and the punishment of crimes. The state, which he had inclined towards a democracy,

[f] The constitutional history of the kings of Rome may be studied in the first book of Livy, and more copiously in Dionysius Halicarnassensis, (l. ii, p. 80-96, 119-130; l. iv, p. 198-220), who sometimes betrays the character of a rhetorician and a Greek.

[g] This threefold division of the law was applied to the three Roman kings by Justus Lipsius, (Opp. tom. iv, p. 279); is adopted by Gravina, (Origines Juris Civilis, p. 28, edit. Lips. 1737); and is reluctantly admitted by Mascou, his German editor.

was changed by the last Tarquin into lawless despotism; and when the kingly office was abolished, the patricians engrossed the benefits of freedom. The royal laws became odious or obsolete; the mysterious deposit was silently preserved by the priests and nobles; and, at the end of sixty years, the citizens of Rome still complained that they were ruled by the arbitrary sentence of the magistrates. Yet the positive institutions of the kings had blended themselves with the public and private manners of the city; some fragments of that venerable jurisprudence[h] were compiled by the diligence of antiquarians,[i] and above twenty texts still speak the rudeness of the Pelasgic idiom of the Latins.[k]

[h] The most ancient Code or Digest was styled Jus Papirianum, from the first compiler, Papirius, who flourished somewhat before or after the Regifugium, (Pandect. l. i, tit. ii). The best judicial critics, even Bynkershoek, (tom. i, p. 284, 285), and Heineccius, (Hist. J. C. R. l. i, c. 16, 17, and Opp. tom. iii, sylloge iv, p. 1-8), give credit to this tale of Pomponius, without sufficiently adverting to the value and rarity of such a monument of the third century, of the illiterate city. I much suspect that the Caius Papirius, the Pontifex Maximus, who revived the laws of Numa, (Dionys. Hal. l. iii, p. 171), left only an oral tradition; and that the Jus Papirianum of Granius Flaccus, (Pandect. l. L, tit. xvi, leg. 144), was not a commentary, but an original work, compiled in the time of Cæsar, (Censorin. de Die Natali, l. iii, p. 18. Duker de Latinitate J. C. p. 157).

[i] A pompous, though feeble, attempt to restore the original, is made in the Histoire de la Jurisprudence Romaine of Terasson, p. 22-72, Paris, 1750, in folio; a work of more promise than performance.

[k] In the year 1444, seven or eight tables of brass were dug up between Cortona and Gubio. A part of these, for the rest is Etruscan, represents the primitive state of the Pelasgic letters and language, which are ascribed by Herodotus to that district of Italy, (l. i, c. 56, 57, 58); though this difficult passage may be explained of a Crestona in Thrace, (Notes de Larcher, tom. i, p. 256-261). The

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The twelve tables of the decemvirs.

I shall not repeat the well-known story of the decemvirs,[l] who sullied by their actions the honour of inscribing on brass, or wood, or ivory, the TWELVE TABLES of the Roman laws.[m] They were dictated by the rigid and jealous spirit of an aristocracy, which had yielded with reluctance to the just demands of the people. But the substance of the twelve tables was adapted to the state of the city; and the Romans had emerged from barbarism, since they were capable of studying and embracing the institutions of their more enlightened neighbours. A wise Ephesian was driven by envy from his native country: before he could reach the shores of Latium, he had observed the various forms of human nature and civil society; he imparted his knowledge to the legislators of Rome, and a statue was erected in the forum to the perpetual memory of Hermodorus.[n] The names

savage dialect of the Eugubine tables has exercised, and may still elude, the divination of criticism; but the root is undoubtedly Latin, of the same age and character as the Saliare Carmen, which, in the time of Horace, none could understand. The Roman idiom, by an infusion of Doric and Æolic Greek, was gradually ripened into the style of the xii tables, of the Duillian column, of Ennius, of Terence, and of Cicero, (Gruter, Inscript. tom. i, p. cxlii. Scipion Maffei, Istoria Diplomatica, p. 241-253. Bibliotheque Italique, tom. iii, p. 30-41, 174-205; tom. xiv, p. 1-52).

[l] Compare Livy (l. iii, c. 31-59) with Dionysius Halicarnassensis, (l. x, p. 644; xi, p. 691). How concise and animated is the Roman—how prolix and lifeless is the Greek? Yet he has admirably judged the masters, and defined the rules of historical composition.

[m] From the historians, Heineccius (Hist. J. R. l. i, N° 26) maintains that the twelve tables were of brass—æreas: in the text of Pomponius we read eboreas; for which Scaliger has substituted roboreas. (Bynkershock, p. 266). Wood, brass, and ivory, might be successively employed.

[n] His exile is mentioned by Cicero, (Tusculan. Quæstion. v. 36);

and divisions of the copper-money, the sole coin of the infant state, were of Dorian origin:[o] the harvests of Campania and Sicily relieved the wants of a people whose agriculture was often interrupted by war and faction; and since the trade was established,[p] the deputies who sailed from the Tiber, might return from the same harbours with a more precious cargo of political wisdom. The colonies of Great Greece had transported and improved the arts of their mother-country. Cumæ and Rhegium, Crotona and Tarentum, Agrigentum and Syracuse, were in the rank of the most flourishing cities. The disciples of Pythagoras applied philosophy to the use of government; the unwritten laws of Charondas accepted the aid of poetry and music,[q] and Zaleucus framed the republic of the Locrians, which stood without alteration above two hundred years.[r] From a similar mo-

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his statue by Pliny, (Hist. Nat. xxxiv, 11). The letter, dream, and prophecy of Heraclitus, are alike spurious, (Epistolæ Græc. Divers. p. 337).

[o] This intricate subject of the Sicilian and Roman money is ably discussed by Dr. Bentley, (Dissertation on the Epistles of Phalaris, p. 427-479), whose powers in this controversy were called forth by honour and resentment.

[p] The Romans, or their allies, sailed as far as the fair promontory of Africa, (Polyb. l. iii, p. 177, edit. Casaubon, in folio). Their voyages to Cumæ, &c. are noticed by Livy and Dionysius.

[q] This circumstance would alone prove the antiquity of Charondas, the legislator of Rhegium and Catana, who, by a strange error of Diodorus Siculus, (tom. i, l. xii, p. 485-492), is celebrated long afterwards as the author of the policy of Thurium.

[r] Zaleucus, whose existence has been rashly attacked, had the merit and glory of converting a band of outlaws (the Locrians) into the most virtuous and orderly of the Greek republics, (see two Memoires of the Baron de St. Croix, sur la Legislation de la Grande Grèce; Mem. de l'Academie, tom. xlii, p. 276-333). But the laws of Zaleu-

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tive of national pride, both Livy and Dionysius are willing to believe, that the deputies of Rome visited Athens under the wise and splendid administration of Pericles; and the laws of Solon were transfused into the twelve tables. If such an embassy had indeed been received from the barbarians of Hesperia, the Roman name would have been familiar to the Greeks before the reign of Alexander;[4] and the faintest evidence would have been explored and celebrated by the curiosity of succeeding times. But the Athenian monuments are silent; nor will it seem credible that the patricians should undertake a long and perilous navigation to copy the purest model of a democracy. In the comparison of the tables of Solon with those of the

cus and Charondas, which imposed on Diodorus and Stobæus, are the spurious composition of a Pythagorean sophist, whose fraud has been detected by the critical sagacity of Bentley, (p. 335-377).

[4] I seize the opportunity of tracing the progress of this national intercourse: 1. Herodotus and Thucydides, (A. U. C. 330-350) appear ignorant of the name and existence of Rome, (Joseph. contra Apion. tom. ii, l. i, c. 12, p. 444, edit. Havercamp.) 2. Theopompus (A. U. C. 400, Plin. iii, 9) mentions the invasion of the Gauls, which is noticed in looser terms by Heraclides Ponticus, (Plutarch in Camillo, p. 262, edit. H. Stephan.). 3. The real or fabulous embassy of the Romans to Alexander (A. U. C. 430) is attested by Clitarchus, (Plin. iii, 9); by Aristus and Asclepiades, (Arrian, l. vii, p. 294, 295), and by Memnon of Heraclea, (apud Photium, cod. ccxxiv, p. 725): though tacitly denied by Livy. 4. Theophrastus (A. U. C. 440) primus externorum aliqua de Romanis diligentius scripsit, (Plin. iii, 9). 5. Lycophron (A. U. C. 480-500) scattered the first seed of a Trojan colony and the fable of the Æneid, (Cassandra, 1226-1280).—

Γης και θαλασσης σκηπτρα και μοναρχιαν
Λαβοντες.

A bold prediction before the end of the first Punic war.

decemvirs, some casual resemblance may be found: some rules which nature and reason have revealed to every society; some proofs of a common descent from Egypt or Phœnicia.[t] But in all the great lines of public and private jurisprudence, the legislators of Rome and Athens appear to be strangers or adverse to each other. CHAP. XLIV.

Whatever might be the origin or the merit of the twelve tables,[u] they obtained among the Romans that blind and partial reverence which the lawyers of every country delight to bestow on their municipal institutions. The study is recommended by Cicero[x] as equally pleasant and instructive. "They amuse the mind by "the remembrance of old words and the por- "trait of ancient manners; they inculcate the "soundest principles of government and mo- "rals; and I am not afraid to affirm, that the "brief composition of the decemvirs surpasses "in genuine value the libraries of Grecian phi- "losophy. How admirable," says Tully, with honest or affected prejudice, "is the wisdom of Their character and influence.

[t] The tenth table, de modo sepulturæ, was borrowed from Solon, (Cicero de Legibus, ii, 23-26): the furtum per lancem et licium conceptum, is derived by Heineccius from the manners of Athens, (Antiquitat. Rom. tom. ii, p. 167-175). The right of killing a nocturnal thief, was declared by Moses, Solon, and the decemvirs, (Exodus, xxii, 3. Demosthenes contra Timocratem, tom. i, p. 736, edit. Reiske. Macrob. Saturnalia, l. 1, c. 4. Collatio Legum Mosaicarum et Romanarum, tit. vii, N°. 1, p. 218. edit. Cannegieter).

[u] Βραχεως και ακριττως is the praise of Diodorus, (tom. i, l. xii, p. 494,) which may be fairly translated by the eleganti atque absoluta brevitate verborum of Aulus Gellius, (Noct. Attic. xxi, 1).

[x] Listen to Cicero, (de Legibus, ii, 23), and his representative Crassus, (de Oratore, i, 43, 44).

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"our ancestors! We alone are the masters of "civil prudence, and our superiority is the more "conspicuous, if we deign to cast our eyes on "the rude and almost ridiculous jurisprudence "of Dracon, of Solon, and of Lycurgus." The twelve tables were committed to the memory of the young, and the meditation of the old; they were transcribed and illustrated with learned diligence: they had escaped the flames of the Gauls, they subsisted in the age of Justinian, and their subsequent loss has been imperfectly restored by the labours of modern critics.[y] But although these venerable monuments were considered as the rule of right, and the fountain of justice,[z] they were overwhelmed by the weight and variety of new laws, which, at the end of five centuries, became a grievance more intolerable than the vices of the city.[a] Three thousand brass plates, the acts of the senate and people, were deposited in the Capitol:[b] and some of the acts, as the Julian law against extortion, surpassed the number of an hundred chapters.[c] The decemvirs had neglected to

[y] See Heineccius, (Hist. J. R No. 29-33). I have followed the restoration of the xii tables by Gravina (Origines J. C. p. 280-307) and Terasson, (Hist. de la Jurisprudence Romaine, p. 94-205).

[z] Finis æqui juris, (Tacit. Annal. iii, 27). Fons omnis publici et privati juris, (T. Liv. iii, 31).

[a] De principiis juris, et quibus modis ad hanc multitudinem infinitam ac varietatem legum perventum sit altius disseram, (Tacit. Annal. iii, 25). This deep disquisition fills only two pages, but they are the pages of Tacitus. With equal sense, but with less energy, Livy (iii, 34) had complained, in hac immenso aliarum super alias acervatarum legum cumulo, &c.

[b] Suetonius in Vespasiano, c. 8.

[c] Cicero ad Familiares, viii, 8.

import the sanction of Zaleucus, which so long maintained the integrity of his republic. A Locrian who proposed any new law, stood forth in the assembly of the people with a cord round his neck, and if the law was rejected, the innovator was instantly strangled.

Laws of the people.

The decemvirs had been named, and their tables were approved, by an assembly of the *centuries*, in which riches preponderated against numbers. To the first class of Romans, the proprietors of one hundred thousand pounds of copper,[d] ninety-eight votes were assigned, and only ninety-five were left for the six inferior classes, distributed according to their substance by the artful policy of Servius. But the tribunes soon established a more specious and popular maxim, that every citizen has an equal right to enact the laws which he is bound to obey. Instead of the *centuries*, they convened

[d] Dionysius, with Arbuthnot, and most of the moderns, (except Eisenschmidt de Ponderibus, &c. p. 137-140), represent the 100,000 asses by 10,000 Attic drachmæ, or somewhat more than 300 pounds sterling. But their calculation can apply only to the latter times, when the as was diminished to $\frac{1}{272}$th of its ancient weight: nor can I believe that in the first ages, however destitute of the precious metals, a single ounce of silver could have been exchanged for seventy pounds of copper or brass. A more simple and rational method is, to value the copper itself according to the present rate, and, after comparing the mint and the market price, the Roman and avoirdupois weight, the primitive as or Roman pound of copper may be appretiated at one English shilling, and the 100,000 asses of the first class amounted to 5,000 pounds sterling. It will appear from the same reckoning, that an ox was sold at Rome for five pounds, a sheep for ten shillings, and a quarter of wheat for one pound ten shillings, (Festus, p. 330, edit. Dacier; Plin. Hist. Natur. xviii, 4): nor do I see any reason to reject these consequences, which moderate our ideas of the poverty of the first Romans.

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the *tribes;* and the patricians, after an impotent struggle, submitted to the decrees of an assembly, in which their votes were confounded with those of the meanest plebeians. Yet as long as the tribes successively passed over narrow *bridges*,[e] and gave their voices aloud, the conduct of each citizen was exposed to the eyes and ears of his friends and countrymen. The insolvent debtor consulted the wishes of his creditor; the client would have blushed to oppose the views of his patron: the general was followed by his veterans, and the aspect of a grave magistrate was a living lesson to the multitude. A new method of secret ballot abolished the influence of fear and shame, of honour and interest, and the abuse of freedom accelerated the progress of anarchy and despotism.[f] The Romans had aspired to be equal; they were levelled by the equality of servitude; and the dictates of Augustus were patiently ratified by the formal consent of the tribes or centuries. Once, and once only, he experienced a sincere and strenuous opposition. His subjects had resigned all political liberty; they defended the freedom of domestic life. A law which enforced the obligation, and strengthened the bonds of marriage, was clamorously rejected; Propertius, in the arms of Delia, applauded the victory

[e] Consult the common writers on the Roman Comitia, especially Sigonius and Beaufort. Spanheim (de Præstantia et Usu Numismatum, tom. ii, dissert. x, p. 192, 193) shews, on a curious medal, the Cista, Pontes, Septa, Diribitor, &c.

[f] Cicero (de Legibus, iii, 16, 17, 18) debates this constitutional question, and assigns to his brother Quintus the most unpopular side.

of licentious love; and the project of reform was suspended till a new and more tractable generation had arisen in the world.[g] Such an example was not necessary to instruct a prudent usurper, of the mischief of popular assemblies; and their abolition, which Augustus had silently prepared, was accomplished without resistance, and almost without notice, on the accession of his successor.[h] Sixty thousand plebeian legislators, whom numbers made formidable, and poverty secure, were supplanted by six hundred senators, who held their honours, their fortunes, and their lives, by the clemency of the emperor. The loss of executive power was alleviated by the gift of legislative authority; and Ulpian might assert, after the practice of two hundred years, that the decrees of the senate obtained the force and validity of laws.[i] In the times of freedom, the resolves of the people had often been dictated by the passion or error of the moment: the Cornelian, Pompeian, and Julian laws, were adapted by a single hand to the prevailing disorders: but the senate, under the reign of the Cæsars, was composed of magistrates and lawyers, and in questions of private jurisprudence, the integrity of their judgment was seldom perverted by fear or interest.[l]

Decrees of the Senate.

[g] Præ tumultu recusantium perferre non potui, (Sueton. in August. c. 34). See Propertius, l. ii, eleg. 6. Heineccius, in a separate history, has exhausted the whole subject of the Julian and Papian-Poppæan laws, (Opp. tom. vii, P. i. p. 1-479).

[h] Tacit. Annal. i, 15. Lipsius, Excursus E. in Tacitum.

[i] Non ambigitur senatum jus facere posse, is the decision of Ulpian, (l. xvi, ad Edict. in Pandect. l. i, tit. iii, leg. 9). Pomponius taxes

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Edicts of the prætors.

The silence or ambiguity of the laws was supplied by the occasional EDICTS of those magistrates who were invested with the *honours* of the state.[k] This ancient prerogative of the Roman kings, was transferred, in their respective offices, to the consuls and dictators, the censors and prætors; and a similar right was assumed by the tribunes of the people, the ediles, and the proconsuls. At Rome, and in the provinces, the duties of the subject, and the intentions of the governor, were proclaimed; and the civil jurisprudence was reformed by the annual edicts of the supreme judge, the prætor of the city. As soon as he ascended his tribunal, he announced by the voice of the crier, and afterwards inscribed on a white wall, the rules which he proposed to follow in the decision of doubtful cases, and the relief which his equity would afford from the precise rigour of ancient statutes. A principle of discretion more congenial to monarchy was introduced into the republic: the art of respecting the name, and eluding the efficacy, of the laws, was improved by successive prætors; subtleties and fictions were invented to defeat the plainest meaning of the decemvirs, and where the end was salutary, the means were frequently absurd. The secret or probable wish of the dead was suffered to

the comitia of the people as a turba hominum, (Pandect. l. i, tit. ii, leg. 9).

[k] The jus honorarium of the prætors and other magistrates is strictly defined in the Latin text of the Institutes, (l. i, tit. ii, N°. 7), and more loosely explained in the Greek paraphrase of Theophilus, (p. 33-38, edit. Reitz), who drops the important word honorarium.

prevail over the order of succession and the forms of testaments; and the claimant, who was excluded from the character of heir, accepted with equal pleasure from an indulgent prætor the possession of the goods of his late kinsman or benefactor. In the redress of private wrongs, compensations and fines were substituted to the obsolete rigour of the twelve tables; time and space were annihilated by fanciful suppositions; and the plea of youth, or fraud, or violence, annulled the obligation, or excused the performance, of an inconvenient contract. A jurisdiction thus vague and arbitrary was exposed to the most dangerous abuse; the substance, as well as the form, of justice, were often sacrificed to the prejudices of virtue, the bias of laudable affection, and the grosser seductions of interest or resentment. But the errors or vices of each prætor expired with his annual office; such maxims alone as had been approved by reason and practice were copied by succeeding judges; the rule of proceeding was defined by the solution of new cases; and the temptations of injustice were removed by the Cornelian law, which compelled the prætor of the year to adhere to the letter and spirit of his first proclamation.[1] It was reserved for the curiosity and learning of

[1] Dion Cassius (tom i, l. xxxvi, p. 100) fixes the perpetual edicts in the year of Rome 686. Their institution, however, is ascribed to the year 585 in the Acta Diurna, which have been published from the papers of Ludovicus Vives. Their authenticity is supported or allowed by Pighius, (Annal. Roman. tom. ii, p. 377, 378); Grævius, (ad Sueton. p. 778); Dodwell, (Prælection. Cambden, p. 665), and Heineccius; but a single word, Scutum Cimbricum, detects the forgery, (Moyle's Works, vol. i, p. 303).

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Hadrian, to accomplish the design which had been conceived by the genius of Cæsar; and the prætorship of Salvius Julian, an eminent lawyer, was immortalized by the composition of the PERPETUAL EDICT. This well-digested code was ratified by the emperor and the senate; the long divorce of law and equity was at length reconciled; and, instead of the twelve tables, the perpetual edict was fixed as the invariable standard of civil jurisprudence.[m]

The perpetual edict.

From Augustus to Trajan, the modern Cæsars were content to promulgate their edicts in the various characters of a Roman magistrate: and, in the decrees of the senate, the *epistles* and *orations* of the prince were respectfully inserted. Hadrian[n] appears to have been the first who assumed, without disguise, the plenitude of legislative power. And this innovation, so agreeable to his active mind, was countenanced by the patience of the times, and his long absence from the seat of government. The same policy was embraced by succeeding monarchs, and, according to the harsh metaphor of Tertullian, "the gloomy and intricate forest of ancient laws was cleared away by the axe of royal mandates and *constitutions*."[o] During

Constitutions of the emperors.

[m] The history of edicts is composed, and the text of the perpetual edict is restored, by the master-hand of Heineccius, (Opp. tom. vii, P. ii, p. 1-561); in whose researches I might safely acquiesce. In the Academy of Inscriptions, M. Bouchaud has given a series of memoirs to this interesting subject of law and literature.

[n] His laws are the first in the Code. See Dodwell, (Prælect. Cambden, p. 319-340), who wanders from the subject in confused reading and feeble paradox.

[o] Totam illam veterem et squallentem sylvam legum novis prin-

four centuries, from Hadrian to Justinian, the public and private jurisprudence was moulded by the will of the sovereign; and few institutions, either human or divine, were permitted to stand on their former basis. The origin of imperial legislation was concealed by the darkness of ages and the terrors of armed despotism; and a double fiction was propagated by the servility, or perhaps the ignorance, of the civilians who basked in the sunshine of the Roman and Byzantine courts. 1. To the prayer of the ancient Cæsars, the people or the senate had sometimes granted a personal exemption from the obligation and penalty of particular statutes; and each indulgence was an act of jurisdiction exercised by the republic over the first of her citizens. His humble privilege was at length transformed into the prerogative of a tyrant; and the Latin expression of "released from the "laws,"[p] was supposed to exalt the emperor above *all* human restraints, and to leave his conscience and reason as the sacred measure of his conduct. 2. A similar dependence was implied in the decrees of the senate, which, in every reign, defined the titles and powers of an elective magistrate. But it was not before the

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cipalium rescriptorum et edictorum securibus ruscatis et cæditis (Apologet. c. 4, p. 50, edit. Havercamp). He proceeds to praise the recent firmness of Severus, who repealed the useless or pernicious laws, without any regard to their age or authority.

[p] The constitutional style of Legibus Solutus is misinterpreted by the art or ignorance of Dion Cassius, (tom. i, l. liii, p. 713). On this occasion, his editor, Reimar, joins the universal censure which freedom and criticism have pronounced against that slavish historian.

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ideas, and even the language, of the Romans had been corrupted, that a *royal* law,[q] and an irrevocable gift of the people, were created by the fancy of Ulpian, or more probably of Tribonian himself:[r] and the origin of imperial power, though false in fact, and slavish in its consequence, was supported on a principle of freedom and justice. "The pleasure of the "emperor has the vigour and effect of law, "since the Roman people, by the royal law, "have transferred to their prince the full ex- "tent of their own power and sovereignty."[s] The will of a single man, of a child perhaps, was allowed to prevail over the wisdom of ages and the inclinations of millions; and the degenerate Greeks were proud to declare, that in his hands alone the arbitrary exercise of legislation could be safely deposited. "What inte- "rest or passion," exclaims Theophilus in the court of Justinian, "can reach the calm and "sublime elevation of the monarch? he is al- "ready master of the lives and fortunes of his "subjects; and those who have incurred his "displeasure, are already numbered with the

Their legislative power

[q] The word (Lex Regia) was still more recent than the thing. The slaves of Commodus or Caracalla would have started at the name of royalty.

[r] See Gravina, (Opp. p. 501-512), and Beaufort, (Republique Romaine, tom. i, p. 255-274). He has made a proper use of two dissertations by John Frederick Gronovius and Noodt, both translated with valuable notes, by Barbeyrac, 2 vols in 12mo. 1731.

[s] Institut. l. i, tit. ii, NO. 6. Pandect. l. i, tit. iv, leg. 1. Cod. Justinian. l. i, tit. xvii, leg. 1, NO. 7. In his antiquities and elements, Heineccius has amply treated de constitutionibus principum, which are illustrated by Godefroy, (Comment. ad Cod. Theodos. l. i, tit. i, ii, iii), and Gravina, (p. 87-90).

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"dead."[t] Disdaining the language of flattery, the historian may confess, that in questions of private jurisprudence, the absolute sovereign of a great empire can seldom be influenced by any personal considerations. Virtue, or even reason, will suggest to his impartial mind, that he is the guardian of peace and equity, and that the interest of society is inseparably connected with his own. Under the weakest and most vicious reign, the seat of justice was filled by the wisdom and integrity of Papinian and Ulpian;[u] and the purest materials of the code and pandects are inscribed with the names of Caracalla and his ministers.[x] The tyrant of Rome was sometimes the benefactor of the provinces. A dagger terminated the crimes of Domitian; but the prudence of Nerva confirmed his acts, which, in the joy of their deliverance, had been rescinded by an indignant senate.[y] Yet in the *rescripts*,[z] replies to the consultations of the

Their rescripts.

[t] Theophilus, in Paraphras. Græc. Institut. p. 33, 34, edit. Reitz. For his person, time, writings, see the Theophilus of J. H. Mylius, Excurs. iii, p. 1034-1073.

[u] There is more envy than reason in the complaint of Macrinus, (Jul. Capitolin. c. 13).—Nefas esse leges videri Commodi et Caracallæ et hominum imperitorum voluntates. Commodus was made a Divus by Severus, (Dodwell, Prælect. viii, p. 324, 325). Yet he occurs only twice in the pandects.

[x] Of Antonius Caracalla alone 200 constitutions are extant in the Code, and with his father 160. These two princes are quoted fifty times in the pandects and eight in the institutes, (Terasson, p. 265).

[y] Plin. Secund, Epistol. x. 66. Sueton. in Domitian. c. 23.

[z] It was a maxim of Constantine, contra jus rescripta non valeant, (Cod. Theodos. l. i, tit. ii, leg. 1). The emperors reluctantly allow some scrutiny into the law and the fact, some delay, petition,

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magistrates, the wisest of princes might be deceived by a partial exposition of the case. And this abuse, which placed their hasty decisions on the same level with mature and deliberate acts of legislation, was ineffectually condemned by the sense and example of Trajan. The *rescripts* of the emperor, his *grants* and *decrees*, his *edicts* and *pragmatic sanctions*, were subscribed in purple ink,[a] and transmitted to the provinces as general or special laws, which the magistrates were bound to execute, and the people to obey. But as their number continually multiplied, the rule of obedience became each day more doubtful and obscure, till the will of the sovereign was fixed and ascertained in the Gregorian, the Hermogenian, and the Theodosian codes. The two first, of which some fragments have escaped, were framed by two private lawyers, to preserve the constitutions of the pagan emperors from Hadrian to Constantine. The third, which is still extant, was digested in sixteen books by the order of the younger Theodosius, to consecrate the laws of the Christian princes from Constantine to his own reign. But the three codes obtained an equal authority in the tribunals; and any act which was not included in the sacred deposit,

&c.; but these insufficient remedies are too much in the discretion and at the peril of the judge.

[a] A compound of vermilion and cinnabar, which marks the imperial diplomas from Leo I. (A. D. 470) to the fall of the Greek empire, (Bibliotheque Raisonée de la Diplomatique, tom. i, p. 509 514. Lami, de Eruditione Apostolorum, tom. ii, p. 720—726).

might be disregarded by the judge as spurious or obsolete.[b]

Forms of the Roman law.

Among savage nations, the want of letters is imperfectly supplied by the use of visible signs, which awaken attention, and perpetuate the remembrance of any public or private transaction. The jurisprudence of the first Romans exhibited the scenes of a pantomime; the words were adapted to the gestures, and the slightest error or neglect in the *forms* of proceeding was sufficient to annul the *substance* of the fairest claim. The communion of the marriage-life was denoted by the necessary elements of fire and water:[c] and the divorced wife resigned the bunch of keys, by the delivery of which she had been invested with the government of the family. The manumission of a son, or a slave, was performed by turning him round with a gentle blow on the cheek: a work was prohibited by the casting of a stone; prescription was interrupted by the breaking of a branch; the clenched fist was the symbol of a pledge or deposit; the right hand was the gift of faith and confidence. The indenture of covenants was a broken straw; weights and scales were introduced into every payment, and the heir who

[b] Schulting, Jurisprudentia Ante-Justinianea, p. 681-718. Cujacius assigned to Gregory the reigns from Hadrian to Gallienus, and the continuation to his fellow-labourer Hermogenes. This general division may be just; but they often trespassed on each other's ground.

[c] Scævola, most probably Q. Cervidius Scævola the master of Papinian, considers this acceptance of fire and water as the essence of marriage, (Pandect. l. xxiv, tit. i, leg. 66. See Heineccius, Hist. J. R. No. 317).

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accepted a testament, was sometimes obliged to snap his fingers, to cast away his garments, and to leap and dance with real or affected transport.[d] If a citizen pursued any stolen goods into a neighbour's house, he concealed his nakedness with a linen towel, and hid his face with a mask or bason, lest he should encounter the eyes of a virgin or a matron.[e] In a civil action, the plaintiff touched the ear of his witness, seized his reluctant adversary by the neck, and implored, in solemn lamentation, the aid of his fellow-citizens. The two competitors grasped each other's hand as if they stood prepared for combat before the tribunal of the prætor: he commanded them to produce the object of the dispute; they went, they returned with measured steps, and a clod of earth was cast at his feet to represent the field for which they contended. This occult science of the words and actions of law was the inheritance of the pontiffs and the patricians. Like the Chaldean astrologers, they announced to their clients the days of business and repose; these important trifles were interwoven with the religion of Numa; and, after the publication of the twelve tables, the Roman people was still en-

[d] Cicero (de Officiis, iii, 19) may state an ideal case, but St Ambrose (de officiis, iii, 2) appeals to the practice of his own times, which he understood as a lawyer and a magistrate, (Schulting ad Ulpian. Fragment, tit. xxii, N°. 28, p. 648, 644).

[e] The furtum lance licioque conceptum was no longer understood in the time of the Antonines, (Aulus Gellius, xvi, 10). The Attic derivation of Heineccius (Antiquitat. Rom. l. iv, tit. i, N°. 13-21) is supported by the evidence of Aristophanes, his scholiast, and Pollux.

slaved by the ignorance of judicial proceedings. The treachery of some plebeian officers at length revealed the profitable mystery: in a more enlightened age, the legal actions were derided and observed; and the same antiquity which sanctified the practice, obliterated the use and meaning, of this primitive language.[f] CHAP. XLIV.

Succession of the civil lawyers.

A more liberal art was cultivated, however, by the sages of Rome, who, in a stricter sense, may be considered as the authors of the civil law. The alteration of the idiom and manners of the Romans, rendered the style of the twelve tables less familiar to each rising generation, and the doubtful passages were imperfectly explained by the study of legal antiquarians. To define the ambiguities, to circumscribe the latitude, to apply the principles, to extend the consequences, to reconcile the real or apparent contradictions, was a much nobler and more important task; and the province of legislation was silently invaded by the expounders of ancient statutes. Their subtle interpretations concurred with the equity of the prætor, to reform the tyranny of the darker ages: however strange or intricate the means, it was the aim of artificial jurisprudence to restore the simple dictates of nature and reason, and the skill of private citizens was usefully employed to undermine the public institutions of their coun-

[f] In his oration for Murena, (c. 9-13), Cicero turns into ridicule the forms and mysteries of the civilians, which are represented with more candour by Aulus Gellius, (Noct. Attic. xx, 10); Gravina, (Opp. p. 265, 266, 267), and Heineccius, (Antiquitat. l. iv, tit. vi).

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try. The revolution of almost one thousand years, from the twelve tables to the reign of Justinian, may be divided into three periods almost equal in duration, and distinguished from each other by the mode of instruction and the character of the civilians.[8] Pride and ignorance contributed, during the first period, to confine within narrow limits the science of the Roman law. On the public days of market or assembly, the masters of the art were seen walking in the forum, ready to impart the needful advice to the meanest of their fellow-citizens, from whose votes, on a future occasion, they might solicit a grateful return. As their years and honours increased, they seated themselves at home on a chair or throne, to expect with patient gravity the visits of their clients, who, at the dawn of day, from the town and country, began to thunder at their door. The duties of social life, and the incidents of judicial proceeding, were the ordinary subject of these consultations, and the verbal or written opinion of

The first period A. U. C. 303-648.

[8] The series of the civil lawyers is deduced by Pomponius, (de Origine Juris Pandect. l. i, tit. ii). The moderns have discussed, with learning and criticism, this branch of literary history; and among these I have chiefly been guided by Gravina (p. 41-79), and Heineccius, (Hist. J. R. N°. 113-351). Cicero, more especially in his books de Oratore, de Claris Oratoribus, de Legibus, and the Clavis Ciceroniana of Ernesti, (under the names of Mucius, &c.), afford much genuine and pleasing information. Horace often alludes to the morning labours of the civilians, (Serm. I, i, 10; Epist. II, i, 103, &c.).

Agricolam laudat juris legumque peritus
Sub galli cantum, consultor ubi ostia pulsat.

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Romæ dulce diu fuit et solemne, reclusa
Mane domo vigilare, clienti promere jura.

the *jurisconsults* was framed according to the rules of prudence and law. The youths of their own order and family were permitted to listen; their children enjoyed the benefit of more private lessons, and the Mucian race was long renowned for the hereditary knowledge of the civil law. The second period, the learned and splendid age of jurisprudence, may be extended from the birth of Cicero to the reign of Severus Alexander. A system was formed, schools were instituted, books were composed, and both the living and the dead became subservient to the instruction of the student. The *tripartite* of Ælius Pætus, surnamed Catus, or the Cunning, was preserved as the oldest work of jurisprudence. Cato the censor derived some additional fame from his legal studies, and those of his son: the kindred appellation of Mucius Scævola was illustrated by three sages of the law; but the perfection of the science was ascribed to Servius Sulpicius their disciple, and the friend of Tully; and the long succession, which shone with equal lustre under the republic and under the Cæsars, is finally closed by the respectable characters of Papinian, of Paul, and of Ulpian. Their names, and the various titles of their productions, have been minutely preserved, and the example of Labeo may suggest some idea of their diligence and fecundity. That eminent lawyer of the Augustan age divided the year between the city and country, between business and composition; and four hundred books are enumerated as the fruit of his retirement. Of the collections of his rival

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Second period, A. U. C. 648-988.

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Capito, the two hundred and fifty-ninth book is expressly quoted; and few teachers could deliver their opinions in less than a century of volumes. In the third period, between the reigns of Alexander and Justinian, the oracles of jurisprudence were almost mute. The measure of curiosity had been filled: the throne was occupied by tyrants and barbarians; the active spirits were diverted by religious disputes, and the professors of Rome, Constantinople, and Berytus, were humbly content to repeat the lessons of their more enlightened predecessors. From the slow advances and rapid decay of these legal studies, it may be inferred, that they require a state of peace and refinement. From the multitude of voluminous civilians who fill the intermediate space, it is evident, that such studies may be pursued, and such works may be performed, with a common share of judgment, experience, and industry. The genius of Cicero and Virgil was more sensibly felt, as each revolving age had been found incapable of producing a similar or a second: but the most eminent teachers of the law were assured of leaving disciples equal or superior to themselves in merit and reputation.

Third period A. U. C. 988-1230.

Their philosophy.

The jurisprudence which had been grossly adapted to the wants of the first Romans, was polished and improved in the seventh century of the city, by the alliance of Grecian philosophy. The Scævolas had been taught by use and experience; but Servius Sulpicius was the first civilian who established his art on a certain

and general theory.[h] For the discernment of truth and falsehood, he applied, as an infallible rule, the logic of Aristotle and the stoics, reduced particular cases to general principles, and diffused over the shapeless mass, the light of order and eloquence. Cicero, his contemporary and friend, declined the reputation of a professed lawyer; but the jurisprudence of his country was adorned by his incomparable genius, which converts into gold every object that it touches. After the example of Plato, he composed a republic; and, for the use of his republic, a treatise of laws; in which he labours to deduce, from a celestial origin, the wisdom and justice of the Roman constitution. The whole universe, according to his sublime hypothesis, forms one immense commonwealth: gods and men, who participate of the same essence, are members of the same community; reason prescribes the law of nature and nations; and all positive institutions, however modified by accident or custom, are drawn from the rule of right, which the Deity has inscribed on every virtuous mind. From these philosophical mysteries, he mildly excludes the sceptics who refuse to believe, and the epicureans who are unwilling to act. The latter disdain the care of the republic; he advises them to slumber in

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[h] Crassus, or rather Cicero himself, proposes (de Oratore, i. 41, 42) an idea of the art or science of jurisprudence, which the eloquent, but illiterate, Antonius (i, 58) affects to deride. It was partly executed by Servius Sulpicius, (in Bruto, c. 41), whose praises are elegantly varied in the classic Latinity of the Roman Gravina, (p. 60).

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their shady gardens. But he humbly entreats that the new academy would be silent, since her bold objections would too soon destroy the fair and well-ordered structure of his lofty system.[1] Plato, Aristotle, and Zeno, he represents as the only teachers who arm and instruct a citizen for the duties of social life. Of these, the armour of the stoics[k] was found to be of the firmest temper; and it was chiefly worn, both for use and ornament, in the schools of jurisprudence. From the portico, the Roman civilians learned to live, to reason, and to die: but they imbibed in some degree the prejudices of the sect; the love of paradox, the pertinacious habits of dispute, and a minute attachment to words and verbal distinctions. The superiority of *form* to *matter*, was introduced to ascertain the right of property: and the equality of crimes is countenanced by an opinion of Trebatius,[l] that he who touches the ear, touches the whole body; and that he who steals

[1] Perturbatricem autem omnium harum rerum academiam, hanc ab Arcesila et Carneade recentem, exoremus ut sileat, nam si invaserit in haec, quae satis scite instructa et composita videantur, nimis edet ruinas, quam quidem ego placare cupio, submovere non audeo (de Legibus, i, 13). From this passage alone Bentley (Remarks on Free-thinking, p. 250) might have learned how firmly Cicero believed in the specious doctrines which he has adorned.

[k] The stoic philosophy was first taught at Rome by Panætius, the friend of the younger Scipio, (see his life in the Mem. de l'Academie des Inscriptions, tom. x, p. 75-89).

[l] As he is quoted by Ulpian, (leg. 40, ad Sabinum in Pandect. l. xlvii, tit. ii, leg. 21). Yet Trebatius, after he was a leading civilian, qui familiam duxit, became an epicurean, (Cicero ad Fam. vii. 5). Perhaps he was not constant or sincere in his new sect.

from an heap of corn, or an hogshead of wine, is guilty of the entire theft.[m]

Authority.

Arms, eloquence, and the study of the civil law, promoted a citizen to the honours of the Roman state; and the three professions were sometimes more conspicuous by their union in the same character. In the composition of the edict, a learned prætor gave a sanction and preference to his private sentiments: the opinion of a censor, or a consul, was entertained with respect: and a doubtful interpretation of the laws might be supported by the virtues or triumphs of the civilian. The patrician arts were long protected by the veil of mystery; and in more enlightened times, the freedom of inquiry established the general principles of jurisprudence. Subtle and intricate cases were elucidated by the disputes of the forum: rules, axioms, and definitions,[n] were admitted as the genuine dictates of reason; and the consent of the legal professors was interwoven into the practice of the tribunals. But these interpreters could neither enact nor execute the laws of the republic; and the judges might disregard the authority of the Scævolas themselves, which was often overthrown by the eloquence or sophistry of an ingenious pleader.[o] Augustus and Tiberius were the first to adopt, as an use-

[m] See Gravina, (p. 45-51), and the ineffectual cavils of Mascou. Heineccius (Hist. J. R. N°. 125) quotes and approves a dissertation of Everard Otto, de Stoica Jurisconsultorum Philosophia.

[n] We have heard of the Catonian rule, the Aquilian stipulation, and the Manilian forms, of 211 maxims, and of 247 definitions, (Pandect. l. L, tit. xvi, xvii).

[o] Read Cicero, l. i, de Oratore, Topica, pro Murena.

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ful engine, the science of the civilians; and their servile labours accommodated the old system to the spirit and views of despotism. Under the fair pretence of securing the dignity of the art, the privilege of subscribing legal and valid opinions was confined to the sages of senatorian or equestrian rank, who had been previously approved by the judgment of the prince; and this monopoly prevailed, till Hadrian restored the freedom of the profession to every citizen conscious of his abilities and knowledge. The discretion of the prætor was now governed by the lessons of his teachers; the judges were enjoined to obey the comment as well as the text of the law; and the use of codicils was a memorable innovation, which Augustus ratified by the advice of the civilians.[p]

Sects.

The most absolute mandate could only require that the judges should agree with the civilians, if the civilians agreed among themselves. But positive institutions are often the result of custom and prejudice; laws and language are ambiguous and arbitrary; where reason is incapable of pronouncing, the love of argument is inflamed by the envy of rivals, the vanity of masters, the blind attachment of their disciples: and the Roman jurisprudence was divided by the once famous sects of the *Procu-*

[p] See Pomponius, (de Origine Juris Pandect. l. i, tit. ii, leg. 2, N°. 47); Heineccius, (ad Institut. l. i, tit. ii, N°. 8; l. ii, tit. xxv, in Element. et Antiquitat.), and Gravina, (p. 41-45). Yet the monopoly of Augustus, an harsh measure, would appear with some softening in the contemporary evidence; and it was probably veiled by a decree of the senate.

lians and *Sabinians*.[q] Two sages of the law, Ateius Capito and Antistius Labeo,[r] adorned the peace of the Augustan age: the former distinguished by the favour of his sovereign; the latter more illustrious by his contempt of that favour, and his stern though harmless opposition to the tyrant of Rome. Their legal studies were influenced by the various colours of their temper and principles. Labeo was attached to the form of the old republic; his rival embraced the more profitable substance of the rising monarchy. But the disposition of a courtier is tame and submissive; and Capito seldom presumed to deviate from the sentiments, or at least from the words, of his predecessors: while the bold republican pursued his independent ideas without fear of paradox or innovations. The freedom of Labeo was enslaved, however, by the rigour of his own conclusions, and he decided according to the letter of the law, the same questions which his indulgent competitor resolved with a latitude of equity more suitable to the common sense and feelings of mankind. If a fair exchange had been substituted to the payment of money, Capito still considered the transaction as a legal

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[q] I have perused the Diatribe of Gotfridus Mascovius, the learned Mascou, de Sectis Jurisconsultorum, (Lipsiæ, 1728, in 12mo, p. 276), a learned treatise on a narrow and barren ground.

[r] See the character of Antistius Labeo in Tacitus, (Annal. iii, 75), and in an epistle of Ateius Capito, (Aul. Gellius, xiii, 12), who accuses his rival of libertas nimia et vecors. Yet Horace would not have lashed a virtuous and respectable senator; and I must adopt the emendation of Bentley, who reads Labieno insanior, (Serm. I. iii, 82). See Mascou, de Sectis, (c. 1, p. 1-24).

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sale ;[s] and he consulted nature for the age of puberty, without confining his definition to the precise period of twelve or fourteen years.[t] This opposition of sentiments was propagated in the writings and lessons of the two founders; the schools of Capito and Labeo maintained their inveterate conflict from the age of Augustus to that of Hadrian ;[u] and the two sects derived their appellations from Sabinus and Proculus, their most celebrated teachers. The names of *Cassians* and *Pegasians* were likewise applied to the same parties ; but, by a strange reverse, the popular cause was in the hands of Pegasus,[x] a timid slave of Domitian, while the favourite of the Cæsars was represented by Cassius,[y] who gloried in his descent from the

[s] Justinian (Institut. l. iii, tit. xxiii, and Theophil. Vers. Græc. p. 677, 680) has commemorated this weighty dispute, and the verses of Homer that were alleged on either side as legal authorities. It was decided by Paul, (leg. 33, ad Edict. in Pandect. l. xviii, tit. i, leg. i), since, in a simple exchange, the buyer could not be discriminated from the seller.

[t] This controversy was likewise given for the Proculians, to supersede the indecency of a search, and to comply with the aphorism of Hypocrates, who was attached to the septenary number of two weeks of years, or 700 of days, (Institut. l. i, tit. xxii). Plutarch and the stoics, (de Placit. Philosoph. l. v, c. 24) assign a more natural reason. Fourteen years is the age—περι ην ὁ σπερματικος χρονος. See the vestigia of the sects in Mascou, c. ix, p. 145-276.

[u] The series and conclusion of the sects are described by Mascou, (c. ii-vii, p. 24-120), and it would be almost ridiculous to praise his equal justice to these obsolete sects.

[x] At the first summons he flies to the turbot council ; yet Juvenal (Satir. iv, 75-81) styles the prefect or bailiff of Rome sanctissimus legum interpres. From his science, says the old scholiast, he was called, not a man, but a book. He derived the singular name of Pegasus from the galley which his father commanded.

[y] Tacit. Annal. xvii, 7. Sueton. in Nerone, c. xxxvii.

patriot assassin. By the perpetual edict, the controversies of the sects were in a great measure determined. For that important work, the emperor Hadrian preferred the chief of the Sabinians: the friends of monarchy prevailed; but the moderation of Salvius Julian insensibly reconciled the victors and the vanquished. Like the contemporary philosophers, the lawyers of the age of the Antonines disclaimed the authority of a master, and adopted from every system the most probable doctrines.[z] But their writings would have been less voluminous, had their choice been more unanimous. The conscience of the judge was perplexed by the number and weight of discordant testimonies, and every sentence that his passion or interest might pronounce, was justified by the sanction of some venerable name. An indulgent edict of the younger Theodosius excused him from the labour of comparing and weighing their arguments. Five civilians, Caius, Papinian, Paul, Ulpian, and Modestinus, were established as the oracles of jurisprudence: a majority was decisive; but if their opinions were equally divided, a casting vote was ascribed to the superior wisdom of Papinian.[a]

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[z] Mascou, de Sectis, c. viii, p. 120-144, de Hericundis, a legal term which was applied to these eclectic lawyers: hericiscere is synonymous to dividere.

[a] See the Theodosian Code, l. i, tit. iv, with Godefroy's Commentary, tom. i, p. 30-35. This decree might give occasion to Jesuitical disputes like those in the Lettres Provinciales, whether a judge was obliged to follow the opinion of Papinian, or of a majority, against his judgment, against his conscience, &c. . Yet a legislator might

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Reformation of the Roman law by Justinian, A. D. 527, &c.

When Justinian ascended the throne, the reformation of the Roman jurisprudence was an arduous but indispensable task. In the space of ten centuries, the infinite variety of laws and legal opinions had filled many thousand volumes, which no fortune could purchase and no capacity could digest. Books could not easily be found; and the judges, poor in the midst of riches, were reduced to the exercise of their illiterate discretion. The subjects of the Greek provinces were ignorant of the language that disposed of their lives and properties; and the *barbarous* dialect of the Latins was imperfectly studied in the academies of Berytus and Constantinople. As an Illyrian soldier, that idiom was familiar to the infancy of Justinian; his youth had been instructed by the lessons of jurisprudence, and his imperial choice selected the most learned civilians of the East, to labour with their sovereign in the work of reformation.[b] The theory of professors was assisted by the practice of advocates, and the experience of magistrates; and the whole undertaking was animated by the spirit of Tribonian.[c] This ex-

Tribonian, A. D. 527-546.

give that opinion, however false, the validity, not of truth, but of law.

[b] For the legal labours of Justinian, I have studied the Preface to the Institutes; the 1st, 2d, and 3d Prefaces to the Pandects; the 1st and 2d Preface to the Code; and the Code itself, (l. i, tit. xvii, de Veteri Jure enucleando). After these original testimonies, I have consulted, among the moderns, Heineccius, (Hist. J. R. N. 383-401;) Terasson, (Hist. de la Jurisprudence Romaine, p. 295-356); Gravina, (Opp. p. 93-100), and Ludewig, in his life of Justinian, (p. 19-123, 318-321: for the Code and Novels, p. 209 261; for the Digest or Pandects, p. 262-317).

[c] For the character of Tribonian, see the testimonies of Procо-

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traordinary man, the object of so much praise and censure, was a native of Side in Pamphylia; and his genius, like that of Bacon, embraced, as his own, all the business and knowledge of the age. Tribonian composed, both in prose and verse, on a strange diversity of curious and abstruse subjects:[d] a double panegyric of Justinian and the life of the philosopher Theodotus; the nature of happiness, and the duties of government: Homer's catalogue and the four-and-twenty sorts of metre; the astronomical canon of Ptolemy: the changes of the months; the houses of the planets; and the harmonic system of the world. To the literature of Greece he added the use of the Latin tongue; the Roman civilians were deposited in his library and in his mind; and he most assiduously cultivated those arts which opened the road of wealth and preferment. From the bar of the pretorian prefects, he raised himself to the honours of questor, of consul, and of master of the offices: the council of Justinian listened to his eloquence and wisdom, and envy was mitigated by the gentleness and affability of his manners. The reproaches of impiety and avarice have stained the virtues or the reputation of Tribonian. In a bigotted and persecuting court, the principal

pœne, (Persic. l. i, c. 23, 24; Anecdot. c. 13, 20), and Suidas, (tom. iii, p. 501, edit. Kuster). Ludewig (in Vit. Justinian p. 175-209) works hard, very hard, to white-wash—the black-a-moor.

[d] I apply the two passages of Suidas to the same man; every circumstance so exactly tallies. Yet the lawyers appear ignorant; and Fabricius is inclined to separate the two characters, (Bibliot. Græc. tom. i, p. 311; ii, p. 518; iii, p. 418; xii, p. 316, 353, 474).

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minister was accused of a secret aversion to the Christian faith, and was supposed to entertain the sentiments of an atheist and a pagan, which have been imputed, inconsistently enough, to the last philosophers of Greece. His avarice was more clearly proved and more sensibly felt. If he were swayed by gifts in the administration of justice, the example of Bacon will again occur; nor can the merit of Tribonian atone for his baseness, if he degraded the sanctity of his profession; and if laws were every day enacted, modified, or repealed, for the base consideration of his private emolument. In the sedition of Constantinople, his removal was granted to the clamours, perhaps to the just indignation, of the people; but the questor was speedily restored, and till the hour of his death, he possessed, above twenty years, the favour and confidence of the emperor. His passive and dutiful submission has been honoured with the praise of Justinian himself, whose vanity was incapable of discerning how often that submission degenerated into the grossest adulation. Tribonian adored the virtues of his gracious master: the earth was unworthy of such a prince; and he affected a pious fear, that Justinian, like Elijah or Romulus, would be snatched into the air, and translated alive to the mansions of celestial glory.*

* This story is related by Hesychius, (de Viris Illustribus); Procopius, (Anecdot. c. 13), and Suidas, (tom. iii, p. 501). Such flattery is incredible!

——Nihil est quod credere de se
Non potest, cum laudatur Diis æqua potestas.

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If Cæsar had achieved the reformation of the Roman law, his creative genius, enlightened by reflection and study, would have given to the world a pure and original system of jurisprudence. Whatever flattery might suggest, the emperor of the East was afraid to establish his private judgment as the standard of equity: in the possession of legislative power, he borrowed the aid of time and opinion; and his laborious compilations are guarded by the sages and legislators of past times. Instead of a statue cast in a simple mould by the hand of an artist, the works of Justinian represent a tesselated pavement of antique and costly, but too often of incoherent, fragments. In the first year of his reign, he directed the faithful Tribonian, and nine learned associates, to revise the ordinances of his predecessors, as they were contained, since the time of Hadrian, in the Gregorian, Hermogenian, and Theodosian codes; to purge the errors and contradictions, to retrench whatever was obsolete or superfluous, and to select the wise and salutary laws best adapted to the practice of the tribunals and the use of his subjects. The work was accomplished in fourteen months; and the twelve books or *tables*, which the new decemvirs produced, might be designed to imitate the labours of their Roman predecessors. The new CODE

The Code of Justinian, A. D. 528, Feb. 13; A. D. 529, April 7.

Fontenelle (tom. i, p. 32-39) has ridiculed the impudence of the modest Virgil. But the same Fontenelle places his king above the divine Augustus; and the sage Boileau has not blushed to say,—"Le "destin á ses yeux n'oseroit balancer." Yet neither Augustus nor Louis XIV. were fools.

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of Justinian was honoured with his name, and confirmed by his royal signature: authentic transcripts were multiplied by the pens of notaries and scribes; they were transmitted to the magistrates of the European, the Asiatic, and afterwards the African provinces: and the law of the empire was proclaimed on solemn festivals at the doors of churches. A more arduous operation was still behind: to extract the spirit of jurisprudence from the decisions and conjectures, the questions and disputes, of the Roman civilians. Seventeen lawyers, with Tribonian at their head, were appointed by the emperor to exercise an absolute jurisdiction over the works of their predecessors. If they had obeyed his commands in ten years, Justinian would have been satisfied with their diligence; and the rapid composition of the DIGEST or PANDECTS,[f] in three years, will deserve praise or censure, according to the merit of the execution. From the library of Tribonian, they chose forty, the most eminent civilians of former times:[g] two thousand treatises were com-

The pandects or digest, A. D. 530, Dec. 15; A. D. 533, Dec. 16.

[f] Πανδεκται (general receivers) was a common title of the Greek miscellanies, (Plin. Præfat. ad Hist. Natur). The digesta of Scævola Marcellinus, Celsus, were already familiar to the civilians: but Justinian was in the wrong when he used the two appellations as synonymous. Is the word Pandects Greek or Latin—masculine or feminine? The diligent Brenckman will not presume to decide these momentous controversies, (Hist. Pandect. Florentin. p. 305-304.

[g] Angelus Politianus (l. v, Epist. ult.) reckons thirty-seven (p. 192-200) civilians quoted in the Pandects—a learned, and, for his times, an extraordinary list. The Greek Index to the Pandects enumerates thirty-nine; and forty are produced by the indefatigable Fabricius, (Bibliot. Græc. tom. iii, p. 483-502). Antoninus Augustus

prised in an abridgment of fifty-books; and it has been carefully recorded, that three millions of lines or sentences,[h] were reduced, in this abstract, to the moderate number of one hundred and fifty thousand. The edition of this great work was delayed a month after that of the INSTITUTES; and it seemed reasonable that the elements should precede the digest of the Roman law. As soon as the emperor had approved their labours, he ratified, by his legislative power, the speculations of these private citizens: their commentaries on the twelve tables, the perpetual edict, the laws of the people, and the decrees of the senate, succeeded to the authority of the text; and the text was abandoned, as an useless, though venerable, relic of antiquity. The *Code*, the *Pandects*, and the *Institutes*, were declared to be the legitimate system of civil jurisprudence; they alone were admitted in the tribunals, and they alone were taught in the academies of Rome, Constantinople, and Berytus. Justinian addressed to the senate and provinces his *eternal oracles;* and his pride, under the mask of piety, ascribed the consummation of this great design to the support and inspiration of the Deity.

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(de Nominibus Propriis; Pandect. apud Ludewig, p. 280) is said to have added fifty-four names; but they must be vague or second-hand references.

[h] The Στιχοι of the Ancient MSS. may be strictly defined as sentences or periods of a complete sense, which, on the breadth of the parchment rolls or volumes, composed as many lines of unequal length. The number of Στιχοι in each book served as a check on the errors of the scribes, (Ludewig, p. 211-215, and his original author Suicer. Thesaur. Ecclesiast. tom. i, p. 1021-1036).

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Praise and censure of the code and pandects.

Since the emperor declined the fame and envy of original composition, we can only require at his hands, method, choice, and fidelity, the humble, though indispensable, virtues of a compiler. Among the various combinations of ideas, it is difficult to assign any reasonable preference; but as the order of Justinian is different in his three works, it is possible that all may be wrong; and it is certain that two cannot be right. In the selection of ancient laws, he seems to have viewed his predecessors without jealousy, and with equal regard: the series could not ascend above the reign of Hadrian, and the narrow distinction of paganism and Christianity, introduced by the superstition of Theodosius, had been abolished by the consent of mankind. But the jurisprudence of the pandects is circumscribed within a period of an hundred years, from the perpetual edict to the death of Severus Alexander; the civilians who lived under the first Cæsars, are seldom permitted to speak, and only three names can be attributed to the age of the republic. The favourite of Justinian (it has been fiercely urged) was fearful of encountering the light of freedom and the gravity of Roman sages. Tribonian condemned to oblivion the genuine and native wisdom of Cato, the Scævolas, and Sulpicius; while he invoked spirits more congenial to his own, the Syrians, Greeks, and Africans, who flocked to the imperial court to study Latin as a foreign tongue, and jurisprudence as a lucrative profession. But the ministers of Justinian[1]

[1] An ingenious and learned oration of Schultingius (Jurisprudentia Ante-Justinianea, p. 883-907) justifies the choice of Tribonian,

were instructed to labour, not for the curiosity of antiquarians, but for the immediate benefit of his subjects. It was their duty to select the useful and practical parts of the Roman law; and the writings of the old republicans, however curious or excellent, were no longer suited to the new system of manners, religion, and government. Perhaps, if the preceptors and friends of Cicero were still alive, our candour would acknowledge, that, except in purity of language,[k] their intrinsic merit was excelled by the school of Papinian and Ulpian. The science of the laws is the slow growth of time and experience, and the advantage both of method and materials is naturally assumed by the most recent authors. The civilians of the reign of the Antonines had studied the works of their predecessors: their philosophic spirit had mitigated the rigour of antiquity, simplified the forms of proceeding, and emerged from the jealousy and prejudice of the rival sects. The choice of the authorities that compose the pandects, depended on the judgment of Tribonian; but the power of his sovereign could not absolve

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against the passionate charges of Francis Hottoman and his sectaries.

[k] Strip away the crust of Tribonian, and allow for the use of technical words, and the Latin of the Pandects will be found not unworthy of the silver age. It has been vehemently attacked by Laurentius Valla, a fastidious grammarian of the xvth century, and by his apologist Floridus Sabinus. It has been defended by Alciat and a nameless advocate, (most probably James Capellus). Their various treatises are collected by Duker. (Opuscula de Latinitate veterum Jurisconsultorum, Lugd. Bat. 1721, in 12mo.

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him from the sacred obligations of truth and fidelity. As the legislator of the empire, Justinian might repeal the acts of the Antonines, or condemn, as seditious, the free principles, which were maintained by the last of the *Roman* lawyers.[l] But the existence of past facts is placed beyond the reach of despotism; and the emperor was guilty of fraud and forgery, when he corrupted the integrity of their text, inscribed with their venerable names the words and ideas of his servile reign,[m] and suppressed, by the hand of power, the pure and authentic copies of their sentiments. The changes and interpolations of Tribonian and his colleagues are excused by the pretence of uniformity: but their cares have been insufficient, and the *antinomies*, or contradictions of the code and pandects, still exercise the patience and subtlety of modern civilians [n]

Loss of the ancient jurisprudence.

A rumour devoid of evidence has been propagated by the enemies of Justinian; that the jurisprudence of ancient Rome was reduced to

[l] Nomina quidem veteribus servavimus, legum autem veritatem nostram fecimus. Itaque siquid erat in illis seditiosum, multa autem talia erant ibi reposita, hoc decisum est et definitum, et in perspicuum finem deducta est quaeque lex, (Cod. Justinian. l. i, tit. xvii, leg. 3, N°. 10). A frank confession!

[m] The number of these emblemata (a polite name for forgeries) is much reduced by Bynkershoek, (in the four last books of his observations), who poorly maintains the right of Justinian and the fidelity of Tribonian.

[n] The antinomies, or opposite laws of the code and pandects, are sometimes the cause, and often the excuse, of the glorious uncertainty of the civil law, which so often affords what Montague calls "Questions pour l'Ami." See a fine passage of Franciscus Balduinus in Justinian, (l. ii, p. 259, &c. apud Ludewig, p. 305, 306).

ashes by the author of the pandects, from the vain persuasion, that it was now either false or superfluous. Without usurping an office so invidious, the emperor might safely commit to ignorance and time the accomplishment of this destructive wish. Before the invention of printing and paper, the labour and the materials of writing could be purchased only by the rich; and it may reasonably be computed, that the price of books was an hundred fold their present value [o]. Copies were slowly multiplied and cautiously renewed: the hopes of profit tempted the sacrilegious scribes to erase the characters of antiquity, and Sophocles or Tacitus were obliged to resign the parchment to missals, homilies and the golden legend [p]. If such was the fate of the most beautiful compositions of genius, what stability could be expected for the dull and barren works of an obsolete science? The books of jurisprudence were interesting to few, and entertaining to none; their value was connected with present use, and they sunk for ever as soon as that use was superseded by the innovations of fashion, superior merit, or public authority. In the age of peace and learning, between Cicero and the

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[o] When Fust, or Faustus, sold at Paris his first printed bibles as manuscripts, the price of a parchment copy was reduced from four or five hundred to sixty, fifty and forty crowns. The public was at first pleased with the cheapness, and at length provoked by the discovery of the fraud, (Mattaire, Annal. Typograph. tom. i, p. 12; first edition).

[p] This execrable practice prevailed from the viiith, and more especially from the xiith, century, when it became almost universal, (Montfaucon, in the Memoires de l'Academie, tom. vi, p. 606, &c. Bibliotheque Raisonnée de la Diplomatique, tom. i, p. 176).

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last of the Antonines, many losses had been already sustained, and some luminaries of the school, or forum, were known only to the curious by tradition and report. Three hundred and sixty years of disorder and decay accelerated the progress of oblivion; and it may fairly be presumed, that of the writings, which Justinian is accused of neglecting, many were no longer to be found in the libraries of the East [q]. The copies of Papinian or Ulpian, which the reformer had proscribed, were deemed unworthy of future notice; the twelve tables and prætorian edict insensibly vanished, and the monuments of ancient Rome were neglected or destroyed by the envy and ignorance of the Greeks. Even the pandects themselves have escaped with difficulty and danger from the common shipwreck, and criticism has pronounced, that *all* the editions and manuscripts of the West are derived from *one* original [r]. It was

[q] Pomponius (Pandect. l. i, tit. ii, leg. 2) observes, that of the three founders of the civil law, Mucius, Brutus, and Manilius, extant volumina, scripta Manilii monumenta; that of some old republican lawyers, hæc versantur eorum scripta inter manus hominum. Eight of the Augustan sages were reduced to a compendium: of Cascellius, scripta non extant sed unus liber, &c: of Trebatius, minus frequentantur; of Tubero, libri parum grati sunt. Many quotations in the pandects are derived from books which Tribonian never saw; and, in the long period from the viith to the xiith century of Rome, the apparent reading of the moderns successively depends on the knowledge and veracity of their predecessors.

[r] All, in several instances, repeat the errors of the scribe and the transpositions of some leaves in the Florentine pandects. This fact, if it be true, is decisive. Yet the pandects are quoted by Ivo of Chartres, (who died in 1117); by Theobald, archbishop of Canterbury, and by Vacarius, our first professor, in the year 1140, (Selden ad Fletam, c. 7, tom. ii, p. 1080-1085). Have our British MSS. of the pandects been collated?

transcribed at Constantinople in the beginning of the seventh century [s], was successively transported by the accidents of war and commerce to Amalphi [t], Pisa [u], and Florence [x], and is now deposited as a sacred relic [y] in the ancient palace of the republic [z]. CHAP. XLIV.

It is the first care of a reformer to prevent any future reformation. To maintain the text of the pandects, the institutes, and the code, Legal inconstancy of Justinian.

[s] See the description of this original in Brenckman, (Hist. Pandect. Florent. l. i, c. 2, 3, p. 4-17, and l. ii). Politian, an enthusiast, revered it as the authentic standard of Justinian himself, (p. 407, 408); but this paradox is refuted by the abbreviations of the Florentine MS. (l. ii, c. 3, p. 117-130). It is composed of two quarto volumes with large margins, on a thin parchment, and the Latin characters betray the hand of a Greek scribe.

[t] Brenckman, at the end of his history, has inserted two dissertations on the republic of Amalphi, and the Pisan war in the year 1135, &c.

[u] The discovery of the pandects at Amalphi (A. D. 1137) is first noticed (in 1501) by Ludovicus Bolognius, (Brenckman, l. i, c. 11, (p. 73, 74; l. iv, c. 2, p. 417-425), on the faith of a Pisan chronicle, p. 409, 410), without a name or a date. The whole story, though, (unknown to the xiith century, embellished by ignorant ages, and suspected by rigid criticism, is not, however, destitute of much internal probability, (l. i, c. 4-8, p. 17-50). The Liber Pandectarum of Pisa was undoubtedly consulted in the xivth century by the great Bartolus, (p. 406, 407. See l. i, c. 9, p. 50-62).

[x] Pisa was taken by the Florentines in the year 1406; and in 1411 the pandects were transported to the capital. These events are authentic and famous.

[y] They were now bound in purple, deposited in a rich casket, and shewn to curious travellers by the monks and magistrates bareheaded, and with lighted tapers, (Brenckman, l. i, c. 10, 11, 12, p. 62-93).

[z] After the collations of Politian, Bolognius, and Antonius Augustinus, and the splendid edition of the pandects by Taurellus, (in 1551), Henry Brenckman, a Dutchman, undertook a pilgrimage to Florence, where he employed several years in the study of a single manuscript. His Historia Pandectarum Florentinorum, (Utrecht, 1722, in 4to), though a monument of industry, is a small portion of his original design.

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the use of cyphers and abbreviations was rigorously proscribed; and as Justinian recollected, that the perpetual edict had been buried under the weight of commentators, he denounced the punishment of forgery against the rash civilians who should presume to interpret or pervert the will of their sovereign. The scholars of Accursius, of Bartolus, of Cujacius, should blush for their accumulated guilt, unless they dare to dispute his right of binding the authority of his successors, and the native freedom of the mind. But the emperor was unable to fix his own inconstancy; and, while he boasted of renewing the exchange of Diomede, of transmuting brass into gold[1], he discovered the necessity of purifying his gold from the mixture of baser alloy. Six years had not elapsed from the publication of the code, before he condemned the imperfect attempt, by a new and more accurate edition of the same work, which he enriched with two hundred of his own laws, and fifty decisions of the darkest and most intricate points of jurisprudence. Every year, or, according to Procopius, each day of his long reign, was marked by some legal innovation. Many of his acts were rescinded by himself; many were rejected by his successors, many have been obliterated by time; but the number of sixteen EDICTS, and one hundred and sixty-

Second edition of the code, A. D. 534, Nov. 16.

[1] Χρυσία χαλκεῖων, ἑκατόμβοι ἐννεαβοίων, apud Homerum patrem omnis virtutis, (1st Præfat. ad Pandect.). A line of Milton or Tasso would surprise us in an act of parliament. Quæ omnia obtinere sancimus in omne ævum. Of the first code, he says, (2d Præfat.), in æternum valiturum. Man and for ever!

eight NOVELS [b], has been admitted into the authentic body of the civil jurisprudence. In the opinion of a philosopher superior to the prejudices of his profession, these incessant, and for the most part trifling, alterations, can be only explained by the venal spirit of a prince, who sold without shame his judgments and his laws [c]. The charge of the secret historian is indeed explicit and vehement; but the sole instance, which he produces, may be ascribed to the devotion as well as to the avarice of Justinian. A wealthy bigot had bequeathed his inheritance to the church of Emesa; and its value was enhanced by the dexterity of an artist, who subscribed confessions of debt and promises of payment with the names of the richest Syrians. They pleaded the established prescription of thirty or forty years; but their defence was overruled by a retrospective edict, which extended the claims of the church to the term of a century; an edict so pregnant with injustice and disorder, that after serving this occasional purpose, it was prudently abolished in the same reign. [d] If candour will acquit the emperor

[b] Novellæ is a classic adjective, but a barbarous substantive, (Ludewig, p. 245). Justinian never collected them himself: the nine collations, the legal standard of modern tribunals, consists of ninety-eight novels; but the number was increased by the diligence of Julian, Haloander, and Contius, (Ludewig, p. 249, 253. Aleman. Not. in Anecdot. p. 98).

[c] Montesquieu, Considerations sur la Grandeur et la Decadence des Romains, c. 20, tom. iii, p. 501, in 4to. On this occasion he throws aside the gown and cap of a President à Mortier.

[d] Procopius, Anecdot. c. 28. A similar privilege was granted to the church of Rome, (Novel. ix). For the general repeal of these mischievous indulgences, see Novel. cxi, and Edict. v.

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himself, and transfer the corruption to his wife and favourites, the suspicion of so foul a vice must still degrade the majesty of his laws: and the advocates of Justinian may acknowledge, that such levity, whatsoever be the motive, is unworthy of a legislator and a man.

The institutes, A. D. 533, Nov. 21.

Monarchs seldom condescend to become the preceptors of their subjects; and some praise is due to Justinian, by whose command an ample system was reduced to a short and elementary treatise. Among the various institutes of the Roman law,[e] those of Caius[f] were the most popular in the East and West; and their use may be considered as an evidence of their merit. They were selected by the imperial delegates, Tribonian, Theophilus, and Dorotheus: and the freedom and purity of the Antonines was incrusted with the coarser materials of a degenerate age. The same volume which introduced the youth of Rome, Constantinople, and Berytus, to the gradual study of the code and pandects, is still precious to the historian, the philosopher, and the magistrate. The INSTITUTES of Justinian are divided into four

[e] Lactantius, in his Institutes of Christianity, an elegant and specious work, proposes to imitate the title and method of the civilians. Quidam prudentes et arbitri æquitatis Institutiones Civilis Juris compositas ediderunt, (Institut. Divin. l. i, c. 1). Such as Ulpian, Paul, Florentinus, Marcian.

[f] The emperor Justinian calls him suum, though he died before the end of the second century. His Institutes are quoted by Servius, Boethius, Priscian, &c. and the Epitome by Arrian is still extant; (see the Prolegomena and Notes to the edition of Schulting, in the Jurisprudentia Ante-Justinianea, Lugd. Bat. 1717; Heineccius, Hist. J. R. N°. 313; Ludewig, in Vit. Just. p. 199).

books; they proceed, with no contemptible method, from, I. *Persons*, to II. *Things*, and from things, to III. *Actions;* and the article IV. of *Private Wrongs*, is terminated by the principles of *Criminal Law*. CHAP. XLIV.

I. The distinction of ranks and *persons*, is the firmest basis of a mixed and limited government. In France, the remains of liberty are kept alive by the spirit, the honours, and even the prejudices, of fifty thousand nobles.[s] Two hundred families supply, in lineal descent, the second branch of the English legislature, which maintains, between the king and commons, the balance of the constitution. A gradation of patricians and plebeians, of strangers and subjects, has supported the aristocracy of Genoa, Venice, and ancient Rome. The perfect equality of men is the point in which the extremes of democracy and despotism are confounded, since the majesty of the prince or people would be offended, if any heads were exalted above the level of their fellow-slaves or fellow-citizens. In the decline of the Roman empire, the proud distinctions of the republic were gradually abolished, and the reason or instinct of Justinian completed the simple form of an absolute monarchy. The emperor could not I. Of PERSONS. Freemen and slaves.

[s] See the Annales Politiques de l'Abbé de St. Pierre, tom. i, p. 25, who dates in the year 1735. The most ancient families claim the immemorial possession of arms and fiefs. Since the crusades, some, the most truly respectable, have been created by the king, for merit and services. The recent and vulgar crowd is derived from the multitude of venal offices without trust or dignity, which continually ennoble the wealthy plebeians.

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eradicate the popular reverence which always waits on the possession of hereditary wealth, or the memory of famous ancestors. He delighted to honour with titles and emoluments, his generals, magistrates, and senators; and his precarious indulgence communicated some rays of their glory to the persons of their wives and children. But in the eye of the law, all Roman citizens were equal, and all subjects of the empire were citizens of Rome. That inestimable character was degraded to an obsolete and empty name. The voice of a Roman could no longer enact his laws, or create the annual ministers of his power; his constitutional rights might have checked the arbitrary will of a master; and the bold adventurer from Germany or Arabia was admitted, with equal favour, to the civil and military command, which the citizen alone had been once entitled to assume over the conquests of his fathers. The first Cæsars had scrupulously guarded the distinction of *ingenuous*, and *servile* birth, which was decided by the condition of the mother; and the candour of the laws was satisfied, if *her* freedom could be ascertained during a single moment between the conception and the delivery. The slaves, who were liberated by a generous master, immediately entered into the middle class of *libertines* or freedmen: but they could never be enfranchised from the duties of obedience and gratitude: whatever were the fruits of their industry, their patron and his family inherited the third part; or even the whole of their fortune, if they died without children and without

a testament. Justinian respected the rights of patrons; but his indulgence removed the badge of disgrace from the two inferior orders of freedmen: whoever ceased to be a slave, obtained, without reserve or delay, the station of a citizen; and at length the dignity of an ingenuous birth, which nature had refused, was created, or supposed, by the omnipotence of the emperor. Whatever restraints of age, or forms, or numbers, had been formerly introduced to check the abuse of manumissions, and the too rapid increase of vile and indigent Romans, he finally abolished; and the spirit of his laws promoted the extinction of domestic servitude. Yet the eastern provinces were filled, in the time of Justinian, with multitudes of slaves, either born or purchased for the use of their masters; and the price, from ten to seventy pieces of gold, was determined by their age, their strength, and their education.[h] But the hardships of this dependent state were continually diminished by the influence of government and religion; and the pride of a subject was no longer elated by his absolute dominion over the life and happiness of his bondsman.[i]

[h] If the option of a slave was bequeathed to several legatees, they drew lots, and the losers were entitled to their share of his value; ten pieces of gold for a common servant or maid under ten years; if above that age, twenty; if they knew a trade, thirty; notaries or writers, fifty; midwives or physicians, sixty; eunuchs under ten years, thirty pieces; above, fifty; if tradesmen, seventy, (Cod. l. vi, tit. xliii, leg. 3). These legal prices are generally below those of the market.

[i] For the state of slaves and freedmen, see Institutes, l. i, tit. iii-viii; l. ii, tit. ix; l. iii, tit viii, ix: Pandects or Digest, l. i, tit. v, vi;

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Fathers and children.

The law of nature instructs most animals to cherish and educate their infant progeny. The law of reason inculcates to the human species the returns of filial piety. But the exclusive, absolute, and perpetual dominion of the father over his children, is peculiar to the Roman jurisprudence,[k] and seems to be coeval with the foundation of the city.[l] The paternal power was instituted or confirmed by Romulus himself; and after the practice of three centuries, it was inscribed on the fourth table of the decemvirs. In the forum, the senate, or the camp, the adult son of a Roman citizen enjoyed the public and private rights of a *person*: in his father's house, he was a mere *thing*; confounded by the laws with the moveables, the cattle, and the slaves, whom the capricious master might alienate or destroy without being responsible to any earthly tribunal. The hand

l. xxxviii, tit. i-iv, and the whole of the fortieth book: Code, l. vi, tit. iv, v; l. vii, tit. i-xxiii. Be it henceforwards understood that, with the original text of the Institutes and Pandects, the correspondent articles in the Antiquities and Elements of Heineccius are implicitly quoted; and with the twenty-seven first books of the Pandects, the learned and rational Commentaries of Gerard Noodt, (Opera, tom. ii, p. 1-590, the end; Lugd. Bat. 1724).

[k] See the patria potestas in the Institutes, (l. i, tit. ix), the Pandects, (l. i, tit. vi, vii), and the Code, (l. viii, tit. xlvii, xlviii, xlix). Jus potestatis quod in liberos habemus proprium est civium Romanorum. Nulli enim alii sunt homines, qui talem in liberos habeant potestatem qualem nos *habemus*.

[l] Dionysius Hal. l. ii, p. 94, 95. Gravina (Opp. p. 286) produces the words of the twelve tables. Papinian (in Collatione Legum Roman. et Mosaicarum, tit, iv, p. 204) styles this, patria potestas, lex regia: Ulpian (ad Sabin. l. xxvi, in Pandect. l. i, tit. vi, leg. 8) says, jus potestatis moribus receptum; and furiosus filium in potestate habebit. How sacred—or rather, how absurd!

which bestowed the daily sustenance might resume the voluntary gift, and whatever was acquired by the labour or fortune of the son, was immediately lost in the property of the father. His stolen goods (his oxen or his children) might be recovered by the same action of theft;[m] and if either had been guilty of a trespass, it was in his own option to compensate the damage, or resign to the injured party the obnoxious animal. At the call of indigence or avarice, the master of a family could dispose of his children or his slaves. But the condition of the slave was far more advantageous, since he regained by the first manumission his alienated freedom: the son was again restored to his unnatural father; he might be condemned to servitude a second and a third time, and it was not till after the third sale and deliverance,[n] that he was enfranchised from the domestic power which had been so repeatedly abused. According to his discretion, a father might chastise the real or imaginary faults of his children, by stripes, by imprisonment, by exile, by sending them to the country to work in chains among the meanest of his servants. The majesty of a parent was armed with the power of life and death;[o] and the examples of such

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[m] Pandect. l. xlvii, tit. ii, leg. 14, N°. 13; leg. 38, N°. 1. Such was the decision of Ulpian and Paul.

[n] The trina mancipatio is most clearly defined by Ulpian, (Fragment. x, p. 591, 592, edit. Schulting); and best illustrated in the Antiquities of Heineccius.

[o] By Justinian, the old law, the jus necis of the Roman father, (Institut. l. iv, tit. ix, N°. 7), is reported and reprobated. Some

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bloody executions, which were sometimes praised and never punished, may be traced in the annals of Rome, beyond the times of Pompey and Augustus. Neither age, nor rank, nor the consular office, nor the honours of a triumph, could exempt the most illustrious citizen from the bonds of filial subjection :[p] his own descendants were included in the family of their common ancestor; and the claims of adoption were not less sacred or less rigorous than those of nature. Without fear, though not without danger of abuse, the Roman legislators had reposed an unbounded confidence in the sentiments of paternal love; and the oppression was tempered by the assurance, that each generation must succeed in its turn to the awful dignity of parent and master.

Limitations of the paternal authority.

The first limitation of paternal power is ascribed to the justice and humanity of Numa: and the maid, who, with *his* father's consent, had espoused a freeman, was protected from the disgrace of becoming the wife of a slave. In the first ages, when the city was pressed, and often famished by her Latin and Tuscan neighbours, the sale of children might be a fre-

legal vestiges are left in the Pandects (l. xliii, tit. xxix, leg. 3, N°. 4) and the Collatio Legum Romanarum et Mosaicarum, (tit. ii, N°. 3, p. 189).

[p] Except on public occasions, and in the actual exercise of his office. In publicis locis atque muneribus, atque actionibus patrum, jura cum filiorum qui in magistratu sunt, potestatibus collata interquiescere paululum et connivere, &c. (Aul. Gellius, Noctes Atticæ, ii, 2). The lessons of the philosopher Taurus were justified by the old and memorable example of Fabius; and we may contemplate the same story in the style of Livy (xxiv, 44), and the homely idiom of Claudius Quadrigarius the annalist.

quent practice; but as a Roman could not legally purchase the liberty of his fellow-citizen, the market must gradually fail, and the trade would be destroyed by the conquests of the republic. An imperfect right of property was at length communicated to sons; and the threefold distinction of *profectitious*, *adventitious*, and *professional*, was ascertained by the jurisprudence of the code and pandects.[q] Of all that proceeded from the father, he imparted only the use, and reserved the absolute dominion; yet if his goods were sold, the filial portion was excepted, by a favourable interpretation, from the demands of the creditors. In whatever accrued by marriage, gift, or collateral succession, the property was secured to the son; but the father, unless he had been specially excluded, enjoyed the usufruct during his life. As a just and prudent reward of military virtue, the spoils of the enemy were acquired, possessed, and bequeathed by the soldier alone; and the fair analogy was extended to the emoluments of any liberal profession, the salary of public service, and the sacred liberality of the emperor or the empress. The life of a citizen was less exposed than his fortune to the abuse of paternal power. Yet his life might be adverse to the interest or passions of an unworthy father: the same crimes that flowed from the corruption, were more sensibly felt by the hu-

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[q] See the gradual enlargement and security of the filial peculium in the Institutes, (l. ii, tit. ix); the Pandects, (l. xv, tit. i; l. xli, tit. i), and the Code, (l. iv, tit. xxvi, xxvii).

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manity, of the Augustan age; and the cruel Erixo, who whipt his son till he expired, was saved by the emperor from the just fury of the multitude.[r] The Roman father, from the license of servile dominion, was reduced to the gravity and moderation of a judge. The presence and opinion of Augustus confirmed the sentence of exile pronounced against an intentional parricide by the domestic tribunal of Arius. Hadrian transported to an island the jealous parent, who, like a robber, had seized the opportunity of hunting, to assassinate a youth, the incestuous lover of his stepmother.[s] A private jurisdiction is repugnant to the spirit of monarchy; the parent was again reduced from a judge to an accuser; and the magistrates were enjoined by Severus Alexander to hear his complaints and execute his sentence. He could no longer take the life of a son without incurring the guilt and punishment of murder; and the pains of parricide, from which he had been exempted by the Pompeian law, were finally inflicted by the justice of Constantine.[t] The

[r] The examples of Erixo and Arius are related by Seneca, (de Clementia, i, 14, 15), the former with horror, the latter with applause.

[s] Quod latronis magis quam patris jure eum interfecit, nam patria potestas in pietate debet non in atrocitate consistere, (Marcian, Institut. l. xiv, in Pandect. l. xlviii, tit. ix, leg. 5).

[t] The Pompeian and Cornelian laws de sicariis and parricidis, are repeated, or rather abridged, with the last supplements of Alexander Severus, Constantine, and Valentinian, in the Pandects (l. xlviii, tit. viii, ix), and Code, (l. ix, tit. xvi, xvii). See likewise the Theodosian Code, (l. ix, tit. xiv, xv), with Godefroy's Commentary, (tom. iii, p. 84-113), who pours a flood of ancient and modern learning over these penal laws.

same protection was due to every period of existence: and reason must applaud the humanity of Paulus, for imputing the crime of murder to the father, who strangles, or starves, or abandons his new-born infant; or exposes him in a public place to find the mercy which he himself had denied. But the exposition of children was the prevailing and stubborn vice of antiquity; it was sometimes prescribed, often permitted, almost always practised with impunity, by the nations who never entertained the Roman ideas of paternal power; and the dramatic poets, who appeal to the human heart, represent with indifference a popular custom which was palliated by the motives of economy and compassion.[u] If the father could subdue his own feelings, he might escape, though not the censure, at least the chastisement of the laws; and the Roman empire was stained with the blood of infants, till such murders were included, by Valentinian and his colleagues, in the letter and spirit of the Cornelian law. The lessons of jurisprudence[x] and Christianity had been insufficient to eradicate this inhuman prac- CHAP. XLIV.

[u] When the Chremes of Terence reproaches his wife for not obeying his orders and exposing their infant, he speaks like a father and a master, and silences the scruples of a foolish woman. See Apuleius, (Metamorph. l. x, p. 337, edit. Delphin.).

[x] The opinion of the lawyers, and the discretion of the magistrates, had introduced in the time of Tacitus some legal restraints, which might support his contrast of the boni mores of the Germans to the bonæ leges alibi—that is to say, at Rome, (de Moribus Germanorum, c. 19). Tertullian (ad Nationes, l. i, c. 15) refutes his own charges and those of his brethren, against the heathen jurisprudence.

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tice, till their gentle influence was fortified by the terrors of capital punishment.[y]

Husbands and wives.

Experience has proved, that savages are the tyrants of the female sex, and that the condition of women is usually softened by the refinements of social life. In the hope of a robust progeny, Lycurgus had delayed the season of marriage; it was fixed by Numa at the tender age of twelve years, that the Roman husband might educate to his will a pure and obedient virgin[z]. According to the custom of antiquity, he bought his bride of her parents, and she fulfilled the *coemption*, by purchasing, with three pieces of copper, a just introduction to his house and household deities. A sacrifice of fruits was offered by the pontiffs in the presence of ten witnesses; the contracting parties were seated on the same sheepskin; they tasted a salt cake of *far* or rice; and this *confarreation*[a], which denoted the ancient food of Italy, served as an emblem of their mystic union of mind and bo-

The religious rites of marriage.

[y] The wise and humane sentence of the civilian Paul, (l. ii, Sententiarum in Pandect. l. xxv, tit. iii, leg. 4), is represented as a mere moral precept by Gerard Noodt, (Opp. tom. i, in Julius Paullus, p. 567-588, and Amica Responsio, p. 591-606), who maintains the opinion of Justus Lipsius, (Opp. tom. ii, p. 409, ad Belgas, cent. i, epist. 85), and as a positive binding law by Bynkershock, (de Jure occidendi Liberos, Opp. tom. i, p. 318-340. Curæ Secundæ, p. 391-427.) In a learned but angry controversy the two friends deviated into the opposite extremes.

[z] Dionys. Hal. l. ii, p. 92, 93. Plutarch, in Numa, p. 140, 141. Το σωμα και το ηθος καθορσι και αθικτον επι τω γαμευτι λεγεσθαι.

[a] Among the winter frumenta, the triticum, or bearded wheat; the siligo, or the unbearded; the far, adorea, oryza, whose description perfectly tallies with the rice of Spain and Italy. I adopt this identity on the credit of M. Paucton in his useful and laborious Metrologie, (p. 517-529).

dy. But this union on the side of the woman was rigorous and unequal; and she renounced the name and worship of her father's house, to embrace a new servitude decorated only by the title of adoption. A fiction of the law, neither rational nor elegant, bestowed on the mother of a family[b] (her proper appellation) the strange characters of sister to her own children, and of daughter to her husband or master, who was invested with the plenitude of paternal power. By his judgment or caprice her behaviour was approved, or censured, or chastised; he exercised the jurisdiction of life and death; and it was allowed, that in the cases of adultery or drunkenness[c], the sentence might be properly inflicted. She acquired and inherited for the sole profit of her lord; and so clearly was woman defined, not as a *person*, but as a *thing*, that if the original title were deficient, she might be claimed, like other moveables, by the *use* and possession of an entire year. The inclination of the Roman husband discharged or withheld the conjugal debt, so scrupulously exacted by the Athenian and Jewish laws[d]; but as

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[b] Aulus Gellius (Noctes Atticæ, xviii, 6) gives a ridiculous definition of Ælius Melissus, Matrona, quæ semel, materfamilias quæ sæpius peperit, as porcetra and scropha in the sow kind. He then adds the genuine meaning, quæ in matrimonium vel in manum convenerat.

[c] It was enough to have tasted wine, or to have stolen the key of the cellar, (Plin. Hist. Nat. xiv, 14).

[d] Solon requires three payments per month. By the Misna, a daily debt was imposed on an idle, vigorous young husband; twice a-week on a citizen; once on a peasant; once in thirty days on a camel-driver; once in six months on a seaman. But the student or doctor was free from tribute; and no wife, if she received a weekly

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polygamy was unknown, he could never admit to his bed a fairer or more favoured partner.

Freedom of the matrimonial contract.

After the Punic triumphs, the matrons of Rome aspired to the common benefits of a free and opulent republic: their wishes were gratified by the indulgence of fathers and lovers, and their ambition was unsuccessfully resisted by the gravity of Cato the Censor [c]. They declined the solemnities of the old nuptials, defeated the annual prescription by an absence of three days, and, without losing their name or independence, subscribed the liberal and definite terms of a marriage-contract. Of their private fortunes, they communicated the use, and secured the property; the estates of a wife could neither be alienated nor mortgaged by a prodigal husband; their mutual gifts were prohibited by the jealousy of the laws; and the misconduct of either party might afford, under another name, a future subject for an action of theft. To this loose and voluntary compact, religious and civil rites were no longer essential; and, between persons of a similar rank, the apparent community of life was allowed as sufficient evidence of their nuptials. The dig-

sustenance, could sue for a divorce: for one week a vow of abstinence was allowed. Polygamy divided, without multiplying, the duties of the husband, (Selden, Uxor. Ebraica, l. iii, c. 6. in his works, vol. ii, p. 717-720).

[c] On the Oppian law we may hear the mitigating speech of Valerius Flaccus, and the severe censorial oration of the elder Cato, (Liv. xxxiv, 1-8). But we shall rather hear the polished historian of the eighth, than the rough orators of the sixth century of Rome. The principles, and even the style, of Cato are more accurately preserved by Aulus Gellius, (x, 23).

nity of marriage was restored by the Christians, who derived all spiritual grace from the prayers of the faithful and the benediction of the priest or bishop. The origin, validity, and duties of the holy institution, were regulated by the tradition of the synagogue, the precepts of the gospel, and the canons of general or provincial synods[f]; and the conscience of the Christians was awed by the decrees and censures of their ecclesiastical rulers. Yet the magistrates of Justinian were not subject to the authority of the church: the emperor consulted the unbelieving civilians of antiquity, and the choice of matrimonial laws in the code and pandects, is directed by the earthly motives of justice, policy, and the natural freedom of both sexes[g].

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Besides the agreement of the parties, the essence of every rational contract, the Roman marriage required the previous approbation of the parents. A father might be forced by some recent laws to supply the wants of a mature daughter; but even his insanity was not generally allowed to supersede the necessity of his consent. The causes of the dissolution of matrimony have varied among the Romans[h];

Liberty and abuse of divorce.

[f] For the system of Jewish and catholic matrimony, see Selden, (Uxor Ebraica, Opp. vol. ii, p. 529-860); Bingham, (Christian Antiquities, l. xxii), and Chardon, (Hist. des Sacramens, tom. vi).

[g] The civil laws of marriage are exposed in the Institutes, (l. i, tit. x); the Pandects, l. xxiii, xxiv, xxv), and the Code, (l. v); but as the title de ritu nuptiarum is yet imperfect, we are obliged to explore the fragments of Ulpian, (tit. ix, p. 590, 591), and the Collatio Legum Mosaicarum, (tit. xvi, p. 790, 791), with the Notes of Pithœus and Schulting. They find, in the Commentary of Servius (on the 1st Georgic and the 4th Æneid), two curious passages.

[h] According to Plutarch, (p. 57), Romulus allowed only three

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but the most solemn sacrament, the confarreation itself, might always be done away by rites of a contrary tendency. In the first ages, the father of a family might sell his children, and his wife was reckoned in the number of his children: the domestic judge might pronounce the death of the offender, or his mercy might expel her from his bed and house; but the slavery of the wretched female was hopeless and perpetual, unless he asserted for his own convenience the manly prerogative of divorce. The warmest applause has been lavished on the virtue of the Romans, who abstained from the exercise of this tempting privilege above five hundred years[1]: but the same fact evinces the unequal terms of a connection in which the slave was unable to renounce her tyrant, and the tyrant was unwilling to relinquish his slave. When the Roman matrons became the equal and voluntary companions of their lords, and a new jurisprudence was introduced, that marriage, like other partnerships, might be dissolved by the abdication of one of the associates. In three centuries of prosperity and corruption, this principle was enlarged to frequent practice

grounds of a divorce,—drunkenness, adultery, and false keys. Otherwise, the husband who abused his supremacy, forfeited half his goods to the wife, and half to the goddess Ceres, and offered a sacrifice (with the remainder), to the terrestrial deities. This strange law was either imaginary or transient.

[1] In the year of Rome 523, Spurius Carvilius Ruga repudiated a fair, a good, but a barren wife, (Dionysius Hal. l. ii, p. 93. Plutarch in Numa, p. 141. Valerius Maximus, l. ii, c. 1. Aulus Gellius, iv, 3). He was questioned by the censors, and hated by the people; but his divorce stood unimpeached in law.

and pernicious abuse. Passion, interest, or caprice, suggested daily motives for the dissolution of marriage; a word, a sign, a message, a letter, the mandate of a freedman, declared the separation; the most tender of human connections was degraded to a transient society of profit or pleasure. According to the various conditions of life, both sexes alternately felt the disgrace and injury; an inconstant spouse transferred her wealth to a new family, abandoning a numerous, perhaps a spurious, progeny to the paternal authority and care of her late husband; a beautiful virgin might be dismissed to the world, old, indigent, and friendless; but the reluctance of the Romans, when they were pressed to marriage by Augustus, sufficiently marks, that the prevailing institutions were least favourable to the males. A specious theory is confuted by this free and perfect experiment, which demonstrates, that the liberty of divorce does not contribute to happiness and virtue. The facility of separation would destroy all mutual confidence, and inflame every trifling dispute: the minute difference between an husband and a stranger, which might so easily be removed, might still more easily be forgotten; and the matron, who in five years can submit to the embraces of eight husbands, must cease to reverence the chastity of her own person [k].

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[k] ——Sic fiunt octo mariti
Quinque per autumnos. (Juvenal. Satir. vi, 20).
A rapid succession, which may yet be credible, as well as the non consulum numero, sed maritorum annos suos computant, of Seneca,

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Limitations of the liberty of divorce.

Insufficient remedies followed, with distant and tardy steps, the rapid progress of the evil. The ancient worship of the Romans afforded a peculiar goddess to hear and reconcile the complaints of a married life; but her epithet of *Viriplaca*,[1] the appeaser of husbands, too clearly indicates on which side submission and repentance were always expected. Every act of a citizen was subject to the judgment of the *censors*; the first who used the privilege of divorce assigned, at their command, the motives of his conduct;[m] and a senator was expelled for dismissing his virgin spouse without the knowledge or advice of his friends. Whenever an action was instituted for the recovery of a marriage-portion, the *prætor*, as the guardian of equity, examined the cause and the characters, and gently inclined the scale in favour of the guiltless and injured party. Augustus, who united the powers of both magistrates, adopted their different modes of repressing or chastising the license of divorce.[n] The presence of seven Roman witnesses was required for the validity

de Beneficiis, iii, 16). Jerom saw at Rome a triumphant husband bury his twenty-first wife, who had interred twenty-two of his less sturdy predecessors, (Opp. tom. i, p. 90, ad Gerontiam). But the ten husbands in a month of the poet Martial, is an extravagant hyperbole, (l. vi, epigram 7).

[1] Sacellum Viriplacæ (Valerius Maximus, l. ii, c. 1) in the Palatine region appears in the time of Theodosius, in the description of Rome by Publius Victor.

[m] Valerius Maximus, l. ii, c. 9. With some propriety he judges divorce more criminal than celibacy: illo namque conjugalia sacra spreta tantum, hoc etiam injuriose tractata.

[n] See the laws of Augustus and his successors, in Heineccius, ad Legem Papiam Poppæam, c. 19, in Opp. tom. vi, P. i, p. 323-333.

of this solemn and deliberate act: If any adequate provocation had been given by the husband, instead of the delay of two years, he was compelled to refund immediately, or in the space of six months; but if he could arraign the manners of his wife, her guilt or levity was expiated by the loss of the sixth or eighth part of her marriage-portion. The Christian princes were the first who specified the just causes of a private divorce; their institutions, from Constantine to Justinian, appear to fluctuate between the custom of the empire and the wishes of the church,[o] and the author of the novels too frequently reforms the jurisprudence of the code and pandects. In the most rigorous laws, a wife was condemned to support a gamester, a drunkard, or a libertine, unless he were guilty of homicide, poison, or sacrilege, in which cases the marriage, as it should seem, might have been dissolved by the hand of the executioner. But the sacred right of the husband was invariably maintained to deliver his name and family from the disgrace of adultery: the list of *mortal* sins, either male or female, was curtailed and enlarged by successive regulations, and the obstacles of incurable impotence, long absence, and monastic profession, were allowed to rescind the matrimonial obligation. Whoever transgressed the permission of the law, was subject to various and heavy penalties. CHAP. XLIV.

[o] Aliæ sunt leges Caesarum, aliæ Christi; aliud Papinianus, aliud Paulus noster præcipit, (Jerom. tom. i, p. 198. Selden, Uxor Ebraica, l. iii, c. 31, p. 847-853.

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The woman was stript of her wealth and ornaments, without excepting the bodkin of her hair: if the man introduced a new bride into his bed, *her* fortune might be lawfully seized by the vengeance of his exiled wife. Forfeiture was sometimes commuted to a fine; the fine was sometimes aggravated by transportation to an island, or imprisonment in a monastery: the injured party was released from the bonds of marriage; but the offender, during life or a term of years, was disabled from the repetition of nuptials. The successor of Justinian yielded to the prayers of his unhappy subjects, and restored the liberty of divorce by mutual consent: the civilians were unanimous,[p] the theologians were divided,[q] and the ambiguous word, which contains the precept of Christ, is flexible to any interpretation that the wisdom of a legislator can demand.

Incest, concubines, and bastards.

The freedom of love and marriage was restrained among the Romans by natural and civil

[p] The Institutes are silent, but we may consult the Codes of Theodosius, (l. iii, tit. xvi, with Godefroy's Commentary, tom. i, p. 310-315), and Justinian, (l. v, tit. xvii); the Pandects, (l. xxiv, tit. ii), and the Novels, (xxii, cxvii, cxxvii, cxxxiv, cxl). Justinian fluctuated to the last between civil and ecclesiastical law

[q] In pure Greek, πορνια is not a common word; nor can the proper meaning, fornication, be strictly applied to matrimonial sin. In a figurative sense, how far, and to what offences, may it be extended? Did Christ speak the Rabbinical or Syriac tongue? Of what original word is πορνια the translation? How variously is that Greek word translated in the versions ancient and modern! There are two (Mark, x, 11; Luke, xvi, 18) to one (Matthew, xix, 9), that such ground of divorce was not excepted by Jesus. Some critics have presumed to think, by an evasive answer, he avoided the giving offence either to the school of Sammai or to that of Hillel, (Selden, Uxor Ebraica, l. iii, c. 18-22, 28, 31).

impediments. An instinct, almost innate and universal, appears to prohibit the incestuous commerce[r] of parents and children in the infinite series of ascending and descending generations. Concerning the oblique and collateral branches, nature is indifferent, reason mute, and custom various and arbitrary. In Egypt, the marriage of brothers and sisters was admitted without scruple or exception: a Spartan might espouse the daughter of his father, an Athenian that of his mother; and the nuptials of an uncle with his niece were applauded at Athens as an happy union of the dearest relations. The profane lawgivers of Rome were never tempted by interest or superstition to multiply the forbidden degrees: but they inflexibly condemned the marriage of sisters and brothers, hesitated whether first cousins should be touched by the same interdict; revered the parental character of aunts and uncles, and treated affinity and adoption as a just imitation of the ties of blood. According to the proud maxims of the republic, a legal marriage could only be contracted by free citizens; an honourable, at least an ingenuous, birth was required for the spouse of a senator: but the blood of kings could never mingle in legitimate nuptials with the blood of a Roman; and the

[r] The principles of the Roman jurisprudence are exposed by Justinian, (Institut. l. i, tit. x); and the laws and manners of the different nations of antiquity concerning forbidden degrees, &c. are copiously explained by Dr Taylor in his Elements of Civil law. (p. 108, 314-359); a work of amusing, though various, reading; but which cannot be praised for philosophical precision.

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name of Stranger degraded Cleopatra and Berenice,[s] to live the *concubines* of Mark Antony and Titus.[t] This appellation, indeed, so injurious to the majesty, cannot without indulgence be applied to the manners, of these oriental queens. A concubine, in the strict sense of the civilians, was a woman of servile or plebeian extraction, the sole and faithful companion of a Roman citizen, who continued in a state of celibacy. Her modest station below the honours of a wife, above the infamy of a prostitute, was acknowledged and approved by the laws: from the age of Augustus to the tenth century, the use of this secondary marriage prevailed both in the West and East, and the humble virtues of a concubine were often preferred to the pomp and insolence of a noble matron. In this connection, the two Antonines, the best of princes and of men, enjoyed the comforts of domestic love; the example was imitated by many citizens, impatient of celibacy, but regardful of their families. If at any time they desired to legitimate their natural children, the conversion was instantly performed by the celebration of their nuptials with a partner whose fruitfulness and fidelity they had already tried. By this epithet of *natural*, the offspring of the

[s] When her father Agrippa died, (A. D. 44), Berenice was sixteen years of age, (Joseph. tom. i, Antiquit. Judaic. l. xix, c. 9, p. 952, edit. Havercamp). She was therefore above fifty years old when Titus (A. D. 79) invitus invitam invisit. This date would not have adorned the tragedy or pastoral of the tender Racine.

[t] The *Ægyptia conjunx* of Virgil (Æneid, viii, 688) seems to be numbered among the monsters who warred with Mark Antony against Augustus, the senate, and the gods of Italy.

concubine were distinguished from the spurious brood of adultery, prostitution, and incest, to whom Justinian reluctantly grants the necessary aliments of life; and these natural children alone were capable of succeeding to a sixth part of the inheritance of their reputed father. According to the rigour of law, bastards were entitled only to the name and condition of their mother, from whom they might derive the character of a slave, a stranger, or a citizen. The outcasts of every family were adopted without reproach as the children of the state.[u] CHAP. XLIV.

The relation of guardian and ward, or, in Roman words, of *tutor* and *pupil*, which covers so many titles of the institutes and pandects,[x] is of a very simple and uniform nature. The person and property of an orphan must always be trusted to the custody of some discreet friend. If the deceased father had not signified his choice, the *agnats*, or paternal kindred of the nearest degree, were compelled to act as the natural guardians: the Athenians were apprehensive of exposing the infant to the power of those most interested in his death; but an axiom of Roman jurisprudence has pronounced, that the charge of tutelage should constantly attend Guardians and wards.

[u] The humble but legal rights of concubines and natural children, are stated in the Institutes, (l. i, tit. x); the Pandects, (l. i, tit. vii); the Code, (l. v, tit. xxv), and the Novels, (l. lxxiv, lxxxix). The researches of Heineccius and Giannone (ad Legem Juliam et Papiam-Poppæam, c. iv, p. 164-175; Opere Posthume, p. 108-158) illustrate this interesting and domestic subject.

[x] See the article of guardians and wards in the Institutes, (l. i, tit. xiii-xxvi); the Pandects, (l. xxvi, xxvii), and the Code, (l. v, tit. xxviii-lxx).

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the emolument of succession. If the choice of the father, and the line of consanguinity, afforded no efficient guardian, the failure was supplied by the nomination of the prætor of the city, or the president of the province. But the person whom they named to this *public* office might be legally excused by insanity or blindness, by ignorance or inability, by previous enmity or adverse interest, by the number of children or guardianships with which he was already burdened, and by the immunities which were granted to the useful labours of magistrates, lawyers, physicians, and professors. Till the infant could speak and think, he was represented by the tutor, whose authority was finally determined by the age of puberty. Without his consent, no act of the pupil could bind himself to his own prejudice, though it might oblige others for his personal benefit. It is needless to observe, that the tutor often gave security, and always rendered an account; and that the want of diligence or integrity exposed him to a civil and almost criminal action for the violation of his sacred trust. The age of puberty had been rashly fixed by the civilians at fourteen; but as the faculties of the mind ripen more slowly than those of the body, a *curator* was interposed to guard the fortunes of the Roman youth from his own inexperience and headstrong passions. Such a trustee had been first instituted by the prætor, to save a family from the blind havock of a prodigal or a madman; and the minor was compelled by the laws, to solicit the same protection, to give validity to

his acts till he accomplished the full period of twenty-five years. Women were condemned to the perpetual tutelage of parents, husbands, or guardians; a sex created to please and obey was never supposed to have attained the age of reason and experience. Such at least was the stern and haughty spirit of the ancient law, which had been insensibly mollified before the time of Justinian. CHAP. XLIV.

II. The original right of property can only be justified by the accident or merit of prior occupancy; and on this foundation it is wisely established by the philosophy of the civilians.[3] The savage who hollows a tree, inserts a sharp stone into a wooden handle, or applies a string to an elastic branch, becomes in a state of nature the just proprietor of the canoe, the bow, or the hatchet. The materials were common to all; the new form, the produce of his time and simple industry, belongs solely to himself. His hungry brethren cannot, without a sense of their own injustice, extort from the hunter the game of the forest overtaken or slain by his personal strength and dexterity. If his provident care preserves and multiplies the tame animals, whose nature is tractable to the arts of education, he acquires a perpetual title to the use and service of their numerous progeny, which derives its existence from him alone. If II. Of Things. Right of property.

[3] Institut. l. ii, tit. i, ii. Compare the pure and precise reasoning of Cajus and Heineccius (l. ii, tit. i, p. 69-91) with the loose prolixity of Theophilus, (p. 207-265). The opinions of Ulpian are preserved in the Pandects, (l. i, tit. viii, leg. 41, N°. 1).

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he incloses and cultivates a field for their sustenance and his own, a barren waste is converted into a fertile soil; the seed, the manure, the labour, create a new value, and the rewards of harvest are painfully earned by the fatigues of the revolving year. In the successive states of society, the hunter, the shepherd, the husbandman may defend their possessions by two reasons which forcibly appeal to the feelings of the human mind,—that whatever they enjoy is the fruit of their own industry; and that every man who envies their felicity, may purchase similar acquisitions by the exercise of similar diligence. Such, in truth, may be the freedom and plenty of a small colony cast on a fruitful island. But the colony multiplies, while the space still continues the same: the common rights, the equal inheritance of mankind, are engrossed by the bold and crafty; each field and forest is circumscribed by the land-marks of a jealous master; and it is the peculiar praise of the Roman jurisprudence, that it asserts the claim of the first occupant to the wild animals of the earth, the air, and the waters. In the progress from primitive equity to final injustice, the steps are silent, the shades are almost imperceptible, and the absolute monopoly is guarded by positive laws and artificial reason. The active insatiate principle of self-love can alone supply the arts of life and the wages of industry; and as soon as civil government and exclusive property have been introduced, they become necessary to the existence of the human race.* Except in the singular institution

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of Sparta, the wisest legislators have disapproved an agrarian law as a false and dangerous innovation. Among the Romans, the enormous disproportion of wealth surmounted the ideal restraints of a doubtful tradition, and an obsolete statute; a tradition that the poorest follower of Romulus had been endowed with the perpetual inheritance of two *jugera*;[z] a statute which confined the richest citizen to the measure of five hundred jugera, or three hundred and twelve acres of land. The original territory of Rome consisted only of some miles of wood and meadow along the banks of the Tiber; and domestic exchange could add nothing to the national stock. But the goods of an alien or enemy were lawfully exposed to the first hostile occupier; the city was enriched by the profitable trade of war; and the blood of her sons was the only price that was paid for the Volscian sheep, the slaves of Britain, or the gems and gold of Asiatic kingdoms. In the language of ancient jurisprudence, which was corrupted and forgotten before the age of Justinian, these spoils were distinguished by the name of *manceps* or *mancipium*, taken with the hand; and whenever they were sold or *emancipated*, the purchaser required some assurance that they had been the property of an enemy,

[z] The heredium of the first Romans is defined by Varro, (de Re Rustica, l. i, c. ii, p. 141; c. x, p. 160, 161, edit. Gesner), and clouded by Pliny's declamation, (Hist. Natur. xviii, 2). A just and learned comment is given in the Administration des Terres chez les Romains, (p. 12-66).

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and not of a fellow-citizen.[a] A citizen could only forfeit his rights by apparent dereliction, and such dereliction of a valuable interest could not easily be presumed. Yet, according to the twelve tables, a prescription of one year for moveables, and of two years for immoveables, abolished the claim of the ancient master, if the actual possessor had acquired them by a fair transaction from the person whom he believed to be the lawful proprietor.[b] Such conscientious injustice, without any mixture of fraud or force, could seldom injure the members of a small republic: but the various periods of three, of ten, or of twenty years, determined by Justinian, are more suitable to the latitude of a great empire. It is only in the term of prescription that the distinction of real and personal fortune has been remarked by the civilians, and their general idea of property is that of simple, uniform, and absolute dominion. The subordinate exceptions of *use*, of *usufruct*,[c] of *servitudes*,[d] imposed for the benefit of a

[a] The res mancipe is explained from faint and remote lights by Ulpian (Fragment. tit. xviii, p. 618, 619) and Bynkershoek, (Opp. tom. i, p. 306-315). The definition is somewhat arbitrary; and as none except myself have assigned a reason, I am diffident of my own.

[b] From this short prescription, Hume (Essays, vol. i, p. 425) infers that there could not then be more order and settlement in Italy than now amongst the Tartars. By the civilian of his adversary Wallace, he is reproached, and not without reason, for overlooking the conditions, (Institut. l. ii, tit. vi).

[c] See the Institutes (l. i, tit. iv, v), and the Pandects, (l. vii). Noodt has composed a learned and distinct treatise de Usufructu, (Opp. tom. i, p. 397-476).

[d] The questions de Servitutibus are discussed in the Institutes (l. ii, tit. iii) and Pandects, (l. viii) Cicero, (pro Murena, c. 9, and Lac-

neighbour on lands and houses, are abundantly explained by the professors of jurisprudence. The claims of property, as far as they are altered, by the mixture, the division, or the transformation of substances, are investigated with metaphysical subtlety by the same civilians.

Of inheritance and succession.

The personal title of the first proprietor must be determined by his death: but the possession, without any appearance of change, is peaceably continued in his children, the associates of his toil and the partners of his wealth. This natural inheritance has been protected by the legislators of every climate and age, and the father is encouraged to persevere in slow and distant improvements, by the tender hope, that a long posterity will enjoy the fruits of his labour. The *principle* of hereditary succession is universal, but the *order* has been variously established by convenience or caprice, by the spirit of national institutions, or by some partial example, which was originally decided by fraud or violence. The jurisprudence of the Romans appears to have deviated from the equality of nature, much less than the Jewish,[c]

tantius, (Institut. Divin. l. i, c. 1), affect to laugh at the insignificant doctrine, de aqua pluvia arcenda, &c. Yet it might be of frequent use among litigious neighbours, both in town and country.

[c] Among the patriarchs, the first-born enjoyed a mystic and spiritual primogeniture, (Genesis, xxv, 31). In the land of Canaan he was entitled to a double portion of inheritance, (Deuteronomy, xxi, 17, with le Clerc's judicious Commentary).

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the Athenian,[f] or the English institutions.[g] On the death of a citizen, all his descendants, unless they were already freed from his paternal power, were called to the inheritance of his possessions. The insolent prerogative of primogeniture was unknown: the two sexes were placed on a just level; all the sons and daughters were entitled to an equal portion of the patrimonial estate; and if any of the sons had been intercepted by a premature death, his person was represented, and his share was divided by his surviving children. On the failure of the direct line, the right of succession must diverge to the collateral branches. The degrees of kindred[h] are numbered by the civilians, ascending from the last possessor to a common parent, and descending from the common parent to the next heir: my father stands in the first degree, my brother in the second, his children in the third, and the remainder of the series may be conceived by fancy, or pic-

Civil degrees of kindred.

[f] At Athens the sons were equal, but the poor daughters were endowed at the discretion of their brothers. See the κληρικοι pleadings of Isæus, (in the seventh volume of the Greek Orators), illustrated by the version and comment of Sir William Jones, a scholar, a lawyer, and a man of genius.

[g] In England, the eldest son alone inherits all the land; a law, says the orthodox judge Blackstone, (Commentaries on the laws of England, vol. ii, p. 215), unjust only in the opinion of younger brothers. It may be of some political use in sharpening their industry.

[h] Blackstone's Tables (vol. ii, p. 202) represent and compare the decrees of the civil with those of the canon and common law. A separate tract of Julius Paulus, de gradibus et affinibus, is inserted or abridged in the Pandects, (l. xxxviii, tit. x). In the seventh degrees he computes (N°. 18) 1024 persons.

tured in a genealogical table. In this computation, a distinction was made, essential to the laws and even the constitution of Rome; the *agnats*, or persons connected by a line of males, were called, as they stood in the nearest degree, to an equal partition; but a female was incapable of transmitting any legal claims; and the *cognats* of every rank, without excepting the dear relation of a mother and a son, were disinherited by the twelve tables, as strangers and aliens. Among the Romans, a *gens* or lineage was united by a common *name* and domestic rites: the various *cognomens* or *surnames* of Scipio or Marcellus, distinguished from each other the subordinate branches or families of the Cornelian or Claudian race: the default of the *agnats*, of the same surname, was supplied by the larger denomination of *gentiles*; and the vigilance of the laws maintained, in the same name, the perpetual descent of religion and property. A similar principle dictated the Voconian law,[1] which abolished the right of female inheritance. As long as virgins were given or sold in marriage, the adoption of the wife extinguished the hopes of the daughter. But the equal succession of independent matrons, supported their pride and luxury, and might transport into a foreign house the riches of their fathers. While

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[1] The Voconian law was enacted in the year of Rome 584. The younger Scipio, who was then seventeen years of age, (Freinshemius, Supplement. Livian. xlvi, 40), found an occasion of exercising his generosity to his mother, sisters, &c. (Polybius, tom. ii, l. xxxi, p. 1455-1463 edit. Gronov. a domestic witness).

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the maxims of Cato[k] were revered, they tended to perpetuate in each family a just and virtuous mediocrity; till female blandishments insensibly triumphed; and every salutary restraint was lost in the dissolute greatness of the republic. The rigour of the decemvirs was tempered by the equity of the prætors. Their edicts restored emancipated and posthumous children to the rights of nature; and upon the failure of the *agnats*, they preferred the blood of the *cognats* to the name of the gentiles, whose title and character were insensibly covered with oblivion. The reciprocal inheritance of mothers and sons was established in the Tertullian and Orphitian decrees by the humanity of the senate. A new and more impartial order was introduced by the novels of Justinian, who affected to revive the jurisprudence of the twelve tables. The lines of masculine and female kindred were confounded: the descending, ascending, and collateral series, was accurately defined; and each degree, according to the proximity of blood and affection, succeeded to the vacant possessions of a Roman citizen.[l]

Introduction and liberty of testaments.

The order of succession is regulated by nature, or at least by the general and permanent reason of the lawgiver; but this order is fre-

[k] Legem Voconiam (Ernesti, Clavis Ciceroniana) magna voce bonis lateribus (it sixty-five years of age) suasissem, says old Cato, (de Senectute, c. 5). Aulus Gellius (vii, 13; xvii, 6) has saved some passages.

[l] See the law of succession in the Institutes of Caius, (l. ii, tit. viii, p. 130-144, and Justinian, (l. iii, tit. i-vi, with the Greek version of Theophilus, p. 515-575, 588-600); the Pandects, (l. xxxviii, tit. vi. xvii); the Code, (l. vi, tit. lv-lx), and the Novels, (cxviii).

quently violated by the arbitrary and partial *wills* which prolong the dominion of the testator beyond the grave.[m] In the simple state of society, this last use or abuse of the right of property is seldom indulged: it was introduced at Athens by the laws of Solon; and the private testaments of the father of a family are authorised by the twelve tables. Before the time of the decemvirs,[n] a Roman citizen exposed his wishes and motives to the assembly of the thirty curiæ or parishes, and the general law of inheritance was suspended by an occasional act of the legislature. After the permission of the decemvirs, each private lawgiver promulgated his verbal or written testament in the presence of five citizens, who represented the five classes of the Roman people; a sixth witness attested their concurrence; a seventh weighed the copper money, which was paid by an imaginary purchaser; and the estate was emancipated by a fictitious sale and immediate release. This singular ceremony,[o] which excited the wonder

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[m] That succession was the rule, testament the exception, is proved by Taylor, (Elements of Civil Law, p. 519-547), a learned, rambling, spirited writer. In the second and third books the method of the Institutes is doubtless preposterous; and the Chancellor Duquesseau (Oeuvres, tom. i, p. 275) wishes his countryman Domat in the place of Tribonian. Yet covenants before successions is not surely the natural order of the civil laws.

[n] Prior examples of testaments are perhaps fabulous. At Athens a childless father only could make a will, (Plutarch, in Solon, tom. i, p. 164. See Isæus and Jones).

[o] The testament of Augustus is specified by Suetonius, (in August. c. 101, in Neron. c. 4), who may be studied as a code of Roman Antiquities. Plutarch (Opuscul. tom. ii, p. 970) is surprised

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of the Greeks, was still practised in the age of Severus; but the prætors had already approved a more simple testament, for which they required the seals and signatures of seven witnesses, free from all legal exception, and purposely summoned for the execution of that important act. A domestic monarch, who reigned over the lives and fortunes of his children, might distribute their respective shares according to the degrees of their merit or his affection: his arbitrary displeasure chastised an unworthy son by the loss of his inheritance and the mortifying preference of a stranger. But the experience of unnatural parents recommended some limitations of their testamentary powers. A son, or, by the laws of Justinian, even a daughter, could no longer be disinherited by their silence: they were compelled to name the criminal, and to specify the offence; and the justice of the emperor enumerated the sole causes that could justify such a violation of the first principles of nature and society.[p] Unless a legitimate portion, a fourth part, had been reserved for the children, they were entitled to institute an action or complaint of *inofficious* testament, to suppose that their father's understanding was impaired by sickness or age; and respectfully to appeal from his rigorous sen-

ὁταν δὲ διαθήκας γραφωσιν ἑτέρας μὲν ἀποκλείσωσιν κληρονόμους, ἑτέροις δὲ πωλῶσί τας ὑσίας. The language of Ulpian (Fragment. tit. xx, p. 627, edit. Schulting) is almost too exclusive—solum in usu est.

[p] Justinian (Novell. cxv, N°. 3, 4) enumerates only the public and private crimes, for which a son might likewise disinherit his father.

tence to the deliberate wisdom of the magistrate. In the Roman jurisprudence, an essential distinction was admitted between the inheritance and the legacies. The heirs who succeeded to the entire unity, or to any of the twelve fractions of the substance of the testator, represented his civil and religious character, asserted his rights, fulfilled his obligations, and discharged the gifts of friendship or liberality which his last will had bequeathed under the name of legacies. But as the imprudence or prodigality of a dying man might exhaust the inheritance, and leave only risk and labour to his successor, he was empowered to retain the *Falcidian* portion; to deduct, before the payment of the legacies, a clear fourth for his own emolument. A reasonable time was allowed to examine the proportion between the debts and the estate, to decide whether he should accept or refuse the testament; and if he used the benefit of an inventory, the demands of the creditors could not exceed the valuation of the effects. The last will of a citizen might be altered during his life, or rescinded after his death: the persons whom he named might die before him, or reject the inheritance, or be exposed to some legal disqualification. In the contemplation of these events, he was permitted to substitute second and third heirs, to replace each other according to the order of the testament; and the incapacity of a madman or an infant to bequeath his property, might be supplied by a similar

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Legacies.

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substitution.[q] But the power of the testator expired with the acceptance of the testament: each Roman of mature age and discretion acquired the absolute dominion of his inheritance, and the simplicity of the civil law was never clouded by the long and intricate entails which confine the happiness and freedom of unborn generations.

Codicils and trusts.

Conquest and the formalities of law established the use of *codicils*. If a Roman was surprised by death in a remote province of the empire, he addressed a short epistle to his legitimate or testamentary heir; who fulfilled with honour, or neglected with impunity, this last request, which the judges before the age of Augustus were not authorised to enforce. A codicil might be expressed in any mode, or in any language; but the subscription of five witnesses must declare that it was the genuine composition of the author. His intention, however laudable, was sometimes illegal; and the invention of *fidei-commissa*, or trusts, arose from the struggle between natural justice and positive jurisprudence. A stranger of Greece or Africa might be the friend or benefactor of a childless Roman, but none, except a fellow-citizen, could act as his heir. The Voconian

[q] The substitutions fidei commissaires of the modern civil law is a feudal idea grafted on the Roman jurisprudence, and bears scarcely any resemblance to the ancient fidei commissa, (Institutions du Droit François, tom. i, p. 347-383. Denissart, Decisions de Jurisprudence, tom. iv, p. 577-604). They were stretched to the fourth degree by an abuse of the hundred and fifty-ninth Novel; a partial, perplexed, declamatory law.

law, which abolished female succession, restrained the legacy or inheritance of a woman to the sum of one hundred thousand sesterces;[r] and an only daughter was condemned almost as an alien in her father's house. The zeal of friendship, and parental affection, suggested a liberal artifice: a qualified citizen was named in the testament, with a prayer or injunction that he would restore the inheritance to the person for whom it was truly intended. Various was the conduct of the trustees in this painful situation: they had sworn to observe the laws of their country, but honour prompted them to violate their oath; and if they preferred their interest under the mask of patriotism, they forfeited the esteem of every virtuous mind. The declaration of Augustus relieved their doubts, gave a legal sanction to confidential testaments and codicils, and gently unravelled the forms and restraints of the republican jurisprudence.[s] But as the new practice of trusts degenerated into some abuse, the trustee was enabled, by the Trebellian and Pegasian decrees, to reserve one-fourth of the estate, or to transfer on the head of the real heir all the debts and actions of the succession. The interpretation of testaments was strict and literal; but the language of *trusts* and codicils was delivered from the minute and technical accuracy of the civilians.[t] CHAP. XLIV.

[r] Dion Cassius (tom. ii, l. lvi, p. 814, with Reimar's Notes) specifies in Greek money the sum of 25,000 drachms.

[s] The revolutions of the Roman laws of inheritance are finely, though sometimes fancifully, deduced by Montesquieu, (Esprit des Loix, l. xxvii).

[t] Of the civil jurisprudence of successions, testaments, codicils,

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III. Of Actions.

III. The general duties of mankind are imposed by their public and private relations: but their specific *obligations* to each other can only be the effect of, 1. a promise, 2. a benefit, or, 3. an injury: and when these obligations are ratified by law, the interested party may compel the performance by a judicial *action.* On this principle the civilians of every country have erected a similar jurisprudence, the fair conclusion of universal reason and justice. [u]

I. The goddess of *faith* (of human and social faith) was worshipped, not only in her temples, but in the lives of the Romans; and if that nation was deficient in the more amiable qualities of benevolence and generosity, they astonished the Greeks by their sincere and simple performance of the most burdensome engagements. [x] Yet among the same people, according to the rigid maxims of the patricians and decemvirs, a *naked pact*, a promise, or even an oath, did not create any civil obligation, unless it was confirmed by the legal form of a *stipulation.* Whatever might be the etymolo-

legacies, and trusts, the principles are ascertained in the Institutes of Caius, (l. ii, tit. ii-ix, p. 91-144): Justinian, (l. ii, tit. x-xxv), and Theophilus, (p. 328-514); and the immense detail occupies twelve books (xxviii-xxxix) of the Pandects.

[u] The Institutes of Caius, (l. ii, tit. ix, x. p. 144-214); of Justinian, (l. iii, tit. xiv-xxx; l. iv, tit. i-vi), and of Theophilus, (p. 616-837), distinguish four sorts of obligations—aut re, aut verbis, aut literis, aut consensu; but I confess myself partial to my own division.

[x] How much is the cool, rational evidence of Polybius (l. vi, p. 693; l. xxxi, p. 1459, 1460) superior to vague, indiscriminate applause—omnium maxime et praecipue fidem coluit, (A. Gellius, xx, 1).

gy of the Latin word, it conveyed the idea of a firm and irrevocable contract, which was always expressed in the mode of a question and answer. Do you promise to pay me one hundred pieces of gold? was the solemn interrogation of Seius. I do promise—was the reply of Sempronius. The friends of Sempronius, who answered for his ability and inclination, might be separately sued at the option of Seius; and the benefit of partition, or order of reciprocal actions, insensibly deviated from the strict theory of stipulation. The most cautious and deliberate consent was justly required to sustain the validity of a gratuitous promise; and the citizen who might have obtained a legal security, incurred the suspicion of fraud, and paid the forfeit of his neglect. But the ingenuity of the civilians successfully laboured to convert simple engagements into the form of solemn stipulations. The prætors, as the guardians of social faith, admitted every rational evidence of a voluntary and deliberate act, which in their tribunal produced an equitable obligation, and for which they gave an action and a remedy[7]. CHAP. XLIV.

2. The obligations of the second class, as they were contracted by the delivery of a thing, are marked by the civilians with the epithet of Benefit

[7] The Jus Prætorium de Pactis et Transactionibus is a separate and satisfactory treatise of Gerard Noodt, (Opp. tom. i, p. 483-564). And I will here observe that the universities of Holland and Brandenburgh, in the beginning of the present century, appear to have studied the civil law on the most just and liberal principles.

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real.[z] A grateful return is due to the author of a benefit; and whoever is intrusted with the property of another, has bound himself to the sacred duty of restitution. In the case of a friendly loan, the merit of generosity is on the side of the lender only; in a deposit, on the side of the receiver: but in a *pledge*, and the rest of the selfish commerce of ordinary life, the benefit is compensated by an equivalent, and the obligation to restore is variously modified by the nature of the transaction. The Latin language very happily expresses the fundamental difference between the *commodatum* and the *mutuum*, which our poverty is reduced to confound under the vague and common appellation of a loan. In the former, the borrower was obliged to restore the same individual thing with which he had been *accommodated* for the temporary supply of his wants; in the latter, it was destined for his use and consumption, and he discharged this *mutual* engagement, by substituting the same specific value, according to a just estimation of number, of weight, and of measure. In the contract of *sale*, the absolute dominion is transferred to the purchaser, and he repays the benefit with an adequate sum of gold or silver, the price and universal standard of all earthly possessions. The obligation of another contract, that of *location*, is of a more

[z] The nice and various subject of contracts by consent is spread over four books (xvii xx) of the Pandects, and is one of the parts best deserving of the attention of an English student.

complicated kind. Lands or houses, labour or talents, may be hired for a definite term; at the expiration of the time, the thing itself must be restored to the owner with an additional reward for the beneficial occupation and employment. In these lucrative contracts, to which may be added those of partnership and commissions, the civilians sometimes imagine the delivery of the object, and sometimes presume the consent of the parties. The substantial pledge has been refined into the invisible rights of a mortgage or *hypotheca*; and the agreement of sale, for a certain price, imputes, from that moment, the chances of gain or loss to the account of the purchaser. It may be fairly supposed, that every man will obey the dictates of his interest; and if he accepts the benefit, he is obliged to sustain the expence, of the transaction. In this boundless subject, the historian will observe the *location* of land and money, the rent of the one and the interest of the other, as they materially affect the prosperity of agriculture and commerce. The landlord was often obliged to advance the stock and instruments of husbandry, and to content himself with a partition of the fruits. If the feeble tenant was oppressed by accident, contagion, or hostile violence, he claimed a proportionable relief from the equity of the laws: five years were the customary term, and no solid or costly improvements could be expected from a farmer, who, at each moment, might be ejected

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Interest of money.

by the sale of the estate.[a] Usury,[b] the inveterate grievance of the city, had been discouraged by the twelve tables,[c] and abolished by the clamours of the people. It was revived by their wants and idleness, tolerated by the discretion of the prætors, and finally determined by the code of Justinian. Persons of illustrious rank were confined to the moderate profit of four *per cent.*; six was pronounced to be the ordinary and legal standard of interest; eight was allowed for the convenience of manufacturers

[a] The covenants of rent are defined in the Pandects (l. xix) and the Code, (l. iv, tit. lxv). The quinquennium, or term of five years, appears to have been a custom rather than a law; but in France all leases of land were determined in nine years. This limitation was removed only in the year 1775, (Encyclopédie Methodique, tom. i, de la Jurisprudence, p. 668, 669), and I am sorry to observe that it yet prevails in the beauteous and happy country where I am permitted to reside.

[b] I might implicitly acquiesce in the sense and learning of the three books of G. Noodt, de fœnore et usuris, (Opp. tom. i, p. 175-268). The interpretation of the asses or centesimæ usuræ at twelve, the unciariæ at one per cent. is maintained by the best critics and civilians; Noodt, (l. ii, c. 2, p. 207); Gravina, (Opp. p. 205, &c. 210); Heineccius, (Antiquitat. ad Institut. l. iii, tit. xv); Montesquieu, (Esprit des Loix, l. xxii, c. 22, tom. ii, p. 36; Defense de l'Esprit des Loix, tom. iii, p. 478, &c.). and above all John Frederic Gronovius, (de Pecunia Veteri, l. iii, c. 13, p. 213-227), and his three Antexegeses, p. 455-655), the founder, or at least the champion, of this probable opinion; which is however perplexed with some difficulties.

[c] Primo duodecim tabulis sancitum est ne quis unciario fœnore amplius exerceret, (Tacit. Annal. vi, 16). Pour peu (says Montesquieu, Esprit des Loix, l. xxii, c. 22) qu'on soit versé dans l'histoire de Rome, on verra qu'une pareille loi ne devoit pas etre l'ouvrage des decemvirs. Was Tacitus ignorant—or stupid? But the wiser and more virtuous patricians might sacrifice their avarice to their ambition, and might attempt to check the odious practice by such interest as no lender would accept, and such penalties as no debtor would incur.

and merchants; twelve was granted to nautical insurance, which the wiser ancients had not attempted to define; but except in this perilous adventure, the practice of exorbitant usury was severely restrained.[d] The most simple interest was condemned by the clergy of the East and West:[e] but the sense of mutual benefit, which had triumphed over the laws of the republic, have resisted with equal firmness the decrees of the church, and even the prejudices of mankind.[f] CHAP. XLIV.

3. Nature and society impose the strict obligation of repairing an injury; and the sufferer by private injustice, acquires a personal right and a legitimate action. If the property of another be intrusted to our care, the requisite degree of care may rise and fall according to the benefit which we derive from such temporary possession; we are seldom made responsible for inevitable accident, but the consequences of a voluntary fault must always be imputed to the author.[g] A Roman pursued and recovered Injuries.

[d] Justinian has not condescended to give usury a place in his Institutes; but the necessary rules and restrictions are inserted in the Pandects (l. xxii, tit. i, ii) and the Code, (l. iv, tit. xxxii, xxxiii).

[e] The fathers are unanimous, (Barbeyrac, Morale des Peres, p. 144, &c.); Cyprian, Lactantius, Basil, Chrysostom, (see his frivolous arguments in Noodt, l. i, c. 7, p. 138), Gregory of Nyssa, Ambrose, Jerom, Augustin, and a host of councils and casuists.

[f] Cato, Seneca, Plutarch, have loudly condemned the practice or abuse of usury. According to the etymology of fœnus and τοκος, the principal is supposed to generate the interest: a breed of barren metal, exclaims Shakespeare—and the stage is the echo of the public voice.

[g] Sir William Jones has given an ingenious and rational Essay on

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his stolen goods by a civil action of theft; they might pass through a succession of pure and innocent hands, but nothing less than a prescription of thirty years could extinguish his original claim. They were restored by the sentence of the prætor, and the injury was compensated by double, or threefold, or even quadruple damages, as the deed had been perpetrated by secret fraud or open rapine, as the robber had been surprised in the fact or detected by a subsequent research. The Aquilian law[h] defended the living property of a citizen, his slaves and cattle, from the stroke of malice or negligence: the highest price was allowed that could be ascribed to the domestic animal at any moment of the year preceding his death, a similar latitude of thirty days was granted on the destruction of any other valuable effects. A personal injury is blunted or sharpened by the manners of the times and the sensibility of the individual: the pain or the disgrace of a word or blow cannot easily be appretiated by a pecuniary equivalent. The rude jurisprudence of the decemvirs had confounded all hasty insults, which did not amount to the fracture of a limb, by condemning the aggressor to the common penalty of twenty-five *asses*. But the same denomination of money was reduced, in three centuries, from

the Law of Bailment, (London, 1781, p. 12", in 8vo.) He is perhaps the only lawyer equally conversant with the year-books of Westminster, the Commentaries of Ulpian, the Attic pleadings of Isæus, and the sentences of Arabian and Persian cadhi's.

[h] Noodt (Opp. tom. i. p. 137-172) has composed a separate treatise, ad Legem Aquiliam, (Pandect. l. ix. tit. ii).

a pound to the weight of half an ounce; and the insolence of a wealthy Roman indulged himself in the cheap amusement of breaking and satisfying the law of the twelve tables. Veratius ran through the streets striking on the face the inoffensive passengers, and his attendant purse-bearer immediately silenced their clamours by the legal tender of twenty-five pieces of copper, about the value of one shilling.[i] The equity of the prætors examined and estimated the distinct merits of each particular complaint. In the adjudication of civil damages, the magistrate assumed a right to consider the various circumstances of time and place, of age and dignity, which may aggravate the shame and sufferings of the injured person; but if he admitted the idea of a fine, a punishment, an example, he invaded the province, though, perhaps, he supplied the defects, of the criminal law.

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The execution of the Alban dictator, who was dismembered by eight horses, is represented by Livy as the first and the last instance of Roman cruelty in the punishment of the most atrocious crimes.[k] But this act of justice, or revenge, was inflicted on a foreign enemy in the heat of victory, and at the command of a

Punishments.

[i] Aulus Gellius (Noct. Attic. xx, 1) borrowed his story from the Commentaries of Q. Labeo on the twelve tables.

[k] The narrative of Livy (i. 28) is weighty and solemn. At tu dictis Albane maneres is an harsh reflection, unworthy of Virgil's humanity, (Æneid, viii, 643). Heyne, with his usual good taste, observes that the subject was too horrid for the shield of Æneas, (tom. iii, p. 229).

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Severity of the twelve tables.

single man. The twelve tables afford a more decisive proof of the national spirit, since they were framed by the wisest of the senate, and accepted by the free voices of the people; yet these laws, like the statutes of Draco,[l] are written in characters of blood.[m] They approve the inhuman and unequal principle of retaliation; and the forfeit of an eye for an eye, a tooth for a tooth, a limb for a limb, is rigorously exacted, unless the offender can redeem his pardon by a fine of three hundred pounds of copper. The decemvirs distributed with much liberality the slighter chastisements of flagellation and servitude; and nine crimes of a very different complexion are adjudged worthy of death. 1. Any act of *treason* against the state, or of correspondence with the public enemy. The mode of execution was painful and ignominious: the head of the degenerate Roman was shrouded in a veil, his hands were tied behind his back, and, after he had been scourged by the lictor, he was suspended in the midst of the forum on a cross, or inauspicious tree. 2. Nocturnal meetings in the city; whatever might be the pretence, of pleasure, or religion, or the public good. 3. The murder of a citizen; for which the common feelings of man-

[l] The age of Draco (Olympiad xxxix, 1) is fixed by Sir John Marsham (Canon Chronicus, p. 593-596) and Corsini, (Fasti Attici, tom. iii, p. 62). For his laws, see the writers on the government of Athens, Sigonius, Meursius, Potter, &c.

[m] The eighth, de delictis, of the twelve tables is delineated by Gravina, (Opp. p. 292, 293, with a Commentary, p. 214-230). Aulus Gellius (xx, 1) and the Collatio Legum Mosaicarum et Romanarum afford much original information.

kind demand the blood of the murderer. Poison is still more odious than the sword or dagger; and we are surprised to discover, in two flagitious events, how early such subtle wickedness had infected the simplicity of the republic, and the chaste virtues of the Roman matrons.[n] The parricide who violated the duties of nature and gratitude, was cast into the river or the sea, inclosed in a sack; and a cock, a viper, a dog, and a monkey, were successively added as the most suitable companions.[o] Italy produces no monkeys; but the want could never be felt, till the middle of the sixth century first revealed the guilt of a parricide.[p] 4. The malice of an *incendiary*. After the previous ceremony of whipping, he himself was delivered to the flames; and in this example alone

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[n] Livy mentions two remarkable and flagitious eras, of 3000 persons accused, and of 190 noble matrons convicted, of the crime of poisoning, (xl, 43; viii, 18). Mr Hume discriminates the ages of private and public virtue, (Essays, vol. i, p. 22, 23). I would rather say that such ebullitions of mischief (as in France in the year 1680) are accidents and prodigies which leave no marks on the manners of a nation.

[o] The twelve Tables and Cicero (pro Roscio Amerino, c. 25, 26) are content with the sack; Seneca (Excerpt. Controvers. v, 4) adorns it with serpents; Juvenal pities the guiltless monkey, (innoxia simia—Satir. xiii, 156). Hadrian, (apud Dositheum Magistrum, l. iii, c. 16, p. 874-876, with Schulting's Note); Modestinus, (Pandect. xlviii, tit. ix, leg. 9); Constantine, Cod. l. ix, tit. xvii), and Justinian, (Institut. l. iv, tit. xviii), enumerate all the companions of the parricide. But this fanciful execution was simplified in practice. Hodie tamen vivi exuruntur vel ad bestias dantur, (Paul. Sentent. Recept. l. v. tit. xxiv, p. 512, edit. Schulting).

[p] The first parricide at Rome was L. Ostius, after the second Punic war, (Plutarch in Romulo, tom. i, p. 57). During the Cimbric, P. Malleolus was guilty of the first matricide, (Liv. Epitom. l. lxviii).

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our reason is tempted to approve the justice of retaliation. 5. *Judicial perjury.* The corrupt or malicious witness was thrown headlong from the Tarpeian rock to expiate his falsehood, which was rendered still more fatal by the severity of the penal laws, and the deficiency of written evidence. 6. The corruption of a judge, who accepted bribes, to pronounce an iniquitous sentence. 7. Libels and satires, whose rude strains sometimes disturbed the peace of an illiterate city. The author was beaten with clubs, a worthy chastisement, but it is not certain that he was left to expire under the blows of the executioner. [q] 8. The nocturnal mischief of damaging or destroying a neighbour's corn. The criminal was suspended as a grateful victor to Ceres. But the Sylvan deities were less implacable, and the extirpation of a more valuable tree was compensated by the moderate fine of twenty-five pounds of copper. 9. Magical incantations; which had power, in the opinion of the Latian shepherds, to exhaust the strength of an enemy, to extinguish his life, and remove from their seats his deep-rooted plantations. The cruelty of the twelve tables against insolvent debtors still remains to be told; and I shall dare to prefer the literal sense of antiquity, to the specious refinements of mo-

[q] Horace talks of the formidine fustis, (l. ii, epist. ii, 154); but Cicero de Republica (l. iv, apud Augustin. de Civitat. Dei, ix, 6, in Fragment. Philosoph. tom. iii, p. 393, edit. Olivet) affirms that the decemvirs made libels a capital offence: cum perpaucas res capite sanxissent—perpaucas!

dern criticism.[r] After the judicial proof or confession of the debt, thirty days of grace were allowed before a Roman was delivered into the power of his fellow-citizen. In this private prison, twelve ounces of rice were his daily food; he might be bound with a chain of fifteen pounds weight; and his misery was thrice exposed in the market-place, to solicit the compassion of his friends and countrymen. At the expiration of sixty days, the debt was discharged by the loss of liberty or life; the insolvent debtor was either put to death, or sold in foreign slavery beyond the Tiber: but if several creditors were alike obstinate and unrelenting, they might legally dismember his body, and satiate their revenge by this horrid partition. The advocates for this savage law have insisted, that it must strongly operate in deterring idleness and fraud from contracting debts which they were unable to discharge; but experience would dissipate this salutary terror, by proving, that no creditor could be found to exact this unprofitable penalty of life or limb. As the manners of Rome were insensibly polished, the criminal code of the decemvirs was abolished by the humanity of accusers, witnesses, and judges; and impunity became the consequence of immoderate rigour. The Porcian and Valerian laws prohibited the magistrates from inflicting on a

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[r] Bynkershoek (Observat. Juris Rom. l. i, c. i, in Opp. tom. i, p. 9, 10 11) labours to prove that the creditors divided not the body, but the price, of the insolvent debtor. Yet his interpretation is one perpetual harsh metaphor; nor can he surmount the Roman authorities of Quintilian, Cæcilius, Favonius, and Tertullian. See Aulus Gellius, Noct. Attic. xxi.

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free citizen any capital, or even corporal punishment; and the obsolete statutes of blood were artfully, and perhaps truly, ascribed to the spirit, not of patrician, but of regal, tyranny.

Abolition or oblivion of penal laws.

In the absence of penal laws and the insufficiency of civil actions, the peace and justice of the city were imperfectly maintained by the private jurisdiction of the citizens. The malefactors who replenish our gaols, are the outcasts of society, and the crimes for which they suffer may be commonly ascribed to ignorance, poverty, and brutal appetite. For the perpetration of similar enormities, a vile plebeian might claim and abuse the sacred character of a member of the republic: but on the proof or suspicion of guilt, the slave, or the stranger, was nailed to a cross, and this strict and summary justice might be exercised without restraint over the greatest part of the populace of Rome. Each family contained a domestic tribunal, which was not confined, like that of the prætor, to the cognisance of external actions: virtuous principles and habits were inculcated by the discipline of education; and the Roman father was accountable to the state for the manners of his children, since he disposed, without appeal, of their life, their liberty, and their inheritance. In some pressing emergencies, the citizen was authorised to avenge his private or public wrongs. The consent of the Jewish, the Athenian, and the Roman laws, approved the slaughter of the nocturnal thief; though in open day-light a robber could not be slain with-

out some previous evidence of danger and complaint. Whoever surprised an adulterer in his nuptial bed might freely exercise his revenge;[s] the most bloody or wanton outrage was excused by the provocation;[t] nor was it before the reign of Augustus that the husband was reduced to weigh the rank of the offender, or that the parent was condemned to sacrifice his daughter with her guilty seducer. After the expulsion of the kings, the ambitious Roman who should dare to assume their title, or imitate their tyranny, was devoted to the infernal gods: each of his fellow-citizens was armed with a sword of justice; and the act of Brutus, however repugnant to gratitude or prudence, had been already sanctified by the judgment of his country.[u] The barbarous practice of wearing arms in the midst of peace,[x] and the

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[s] The first speech of Lysias (Reiske, Orator. Græc. tom. v, p. 2-48) is in defence of an husband who had killed the adulterer. The right of husbands and fathers at Rome and Athens is discussed with much learning by Dr Taylor, (Lectiones Lysiacæ, c. xi, in Reiske, tom. vi, p. 301-308).

[t] See Casaubon ad Athenæum, l. i, c. 5, p. 19). Percurrent raphanique mugilesque, (Catull. p. 41, 12, edit. Vossian). Hunc mugilis intrat, (Juvenal, Satir. x, 317). Hunc perminxere calones (Horat. l. i, Satir. ii, 44) familiæ stuprandum dedit . . . fraudi non fuit, (Val. Maxim. l. vi, c. 1, N°. 13).

[u] This law is noticed by Livy, (ii, 8), and Plutarch, (in Publicola, tom. i, p. 197); and it fully justifies the public opinion on the death of Cæsar, which Suetonius could publish under the imperial government. Jure cæsus existimatur, (in Julio, c. 76). Read the letters that passed between Cicero and Marius a few months after the ides of March, (ad Fam. xi, 27, 2 1).

[x] Πρωτοι δε Αθηναιοι τον τε σιδηρον κατεθεντο. Thucydid. l. i, c. 6. The historian who considers this circumstance as the test of civilization, would disdain the barbarism of an European court.

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bloody maxims of honour, were unknown to the Romans; and, during the two purest ages, from the establishment of equal freedom to the end of the Punic wars, the city was never disturbed by sedition, and rarely polluted with atrocious crimes. The failure of penal laws was more sensibly felt when every vice was inflamed by faction at home and dominion abroad. In the time of Cicero, each private citizen enjoyed the privilege of anarchy; each minister of the republic was exalted to the temptations of regal power, and their virtues are entitled to the warmest praise as the spontaneous fruits of nature or philosophy. After a triennial indulgence of lust, rapine, and cruelty, Verres, the tyrant of Sicily, could only be sued for the pecuniary restitution of three hundred thousand pounds Sterling; and such was the temper of the laws, the judges, and perhaps the accuser himself,[y] that on refunding a thirteenth part of his plunder, Verres could retire to an easy and luxurious exile.[z]

Revival of capital punishments.

The first imperfect attempt to restore the proportion of crimes and punishments, was made by the dictator Sylla, who, in the midst of his sanguinary triumph, aspired to restrain the license, rather than to oppress the liberty,

[y] He first rated at millies (L. 800,000) the damages of Sicily, (Divinatio in Cæcilium, c. 5), which he afterwards reduced to quadringenties, (L. 320,000—I. Actio in Verrem, c. 18), and was finally content with tricies, (L. 24,000). Plutarch in Ciceron. (tom. ii. p. 1534) has not dissembled the popular suspicion and report.

[z] Verres lived near thirty years after his trial, till the second triumvirate, when he was proscribed by the taste of Mark Antony for the sake of his Corinthian plate, (Plin. Hist. Natur. xxxiv, 3).

of the Romans. He gloried in the arbitrary proscription of four thousand seven hundred citizens.[a] But in the character of a legislator, he respected the prejudices of the times; and instead of pronouncing a sentence of death against the robber or assassin, the general who betrayed an army, or the magistrate who ruined a province, Sylla was content to aggravate the pecuniary damages by the penalty of exile, or, in more constitutional language, by the interdiction of fire and water. The Cornelian, and afterwards the Pompeian and Julian laws, introduced a new system of criminal jurisprudence;[b] and the emperors, from Augustus to Justinian, disguised their increasing rigour under the names of the original authors. But the invention and frequent use of *extraordinary pains*, proceeded from the desire to extend and conceal the progress of despotism. In the condemnation of illustrious Romans, the senate was always prepared to confound, at the will of their masters, the judicial and legislative powers.* It was the duty of the governors to

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[a] Such is the number assigned by Valerius Maximus, (l. ix, c. 2, N°. 1). Florus (iv, 21) distinguishes 2000 senators and knights; Appian (de Bell. Civil. l. i, c. 95, tom. ii, p. 133, edit. Schweigæuser) more accurately computes 40 victims of the senatorian rank, and 1600 of the equestrian census or order.

[b] For the penal law, (Leges Corneliæ, Pompeiæ, Juliæ, of Sylla, Pompey, and the Cæsars), see the sentences of Paulus, (l. iv, tit. xviii-xxx, p. 497-528, edit. Schulting); the Gregorian Code, (Fragment. l. xiv, p. 705, 706, in Schulting); the Collatio Legum Mosaicarum et Romanarum, (tit. i. xv); the Theodosian Code, (l. ix); the Code of Justinian, (l. ix); the Pandects, (xlviii); the Institutes, (l. iv, tit. xviii), and the Greek version of Theophilus, (p. 917-926).

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maintain the peace of their province, by the arbitrary and rigid administration of justice; the freedom of the city evaporated in the extent of empire, and the Spanish malefactor, who claimed the privilege of a Roman, was elevated by the command of Galba on a fairer and more lofty cross.[c]. Occasional rescripts issued from the throne to decide the questions, which, by their novelty or importance, appeared to surpass the authority and discernment of a proconsul. Transportation and beheading were reserved for honourable persons; meaner criminals were either hanged or burnt, or buried in the mines, or exposed to the wild beasts of the amphitheatre. Armed robbers were pursued and extirpated as the enemies of society; the driving away horses or cattle was made a capital offence;[d] but simple theft was uniformly considered as a mere civil and private injury. The degrees of guilt, and the modes of punishment, were too often determined by the discretion of the rulers, and the subject was left in ignorance of the legal danger which he might incur by every action of his life.

[c] It was a guardian who had poisoned his ward. The crime was atrocious; yet the punishment is reckoned by Suetonius (c. 9) among the acts in which Galba shewed himself acer vehemens, et in delictis coercendis immodicus.

[d] The abactores or abigeatores, who drove one horse, or two mares or oxen, or five hogs, or ten goats, were subject to capital punishment, (Paul. Sentent. Recept. l. iv, tit. xviii, p. 497, 498). Hadrian (ad Concil. Bœticæ), most severe where the offence was most frequent, condemns the criminals, ad gladium, ludi damnationem, (Ulpian de Officio Proconsulis, l. viii, in Collatione Legum Mosaic. et Rom. tit. xi, p. 235).

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A sin, a vice, a crime, are the objects of theology, ethics, and jurisprudence. Whenever their judgments agree, they corroborate each other; but as often as they differ, a prudent legislator appretiates the guilt and punishment according to the measure of social injury. On this principle, the most daring attack on the life and property of a private citizen, is judged less atrocious than the crime of treason or rebellion, which invades the *majesty* of the republic: the obsequious civilians unanimously pronounced, that the republic is contained in the person of its chief: and the edge of the Julian law was sharpened by the incessant diligence of the emperors. The licentious commerce of the sexes may be tolerated as an impulse of nature, or forbidden as a source of disorder and corruption: but the fame, the fortunes, the family of the husband, are seriously injured by the adultery of the wife. The wisdom of Augustus, after curbing the freedom of revenge, applied to this domestic offence the animadversion of the laws: and the guilty parties, after the payment of heavy forfeitures and fines, were condemned to long or perpetual exile in two separate islands.* Religion pronounces an equal censure against the infidelity

Measure of guilt.

* Till the publication of the Julius Paulus of Schulting, (l. ii, tit. xxvi, p. 317-323), it was affirmed and believed, that the Julian laws punished adultery with death; and the mistake arose from the fraud or error of Tribonian. Yet Lipsius had suspected the truth from the narrative of Tacitus, (Annal. ii, 50; iii, 24; iv, 42), and even from the practice of Augustus, who distinguished the treasonable frailties of his female kindred.

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of the husband: but as it is not accompanied by the same civil effects, the wife was never permitted to vindicate her wrongs;[f] and the distinction of simple or double adultery, so familiar and so important in the canon law, is unknown to the jurisprudence of the code and pandects. I touch with reluctance, and dispatch with impatience, a more odious vice, of which modesty rejects the name, and nature abominates the idea. The primitive Romans were infected by the example of the Etruscans[g] and Greeks:[h] in the mad abuse of prosperity and power, every pleasure that is innocent was deemed insipid; and the Scatinian law,[i] which had been extorted by an act of violence, was insensibly abolished by the lapse of time and the multitude of criminals. By this law, the rape, perhaps the seduction, of an in-

Unnatural vice.

[f] In cases of adultery, Severus confined to the husband the right of public accusation. (Cod. Justinian, l. ix, tit. ix, leg. 1). Nor is this privilege unjust—so different are the effects of male or female infidelity.

[g] Timon (l. i), and Theopompus (l. xliii, apud Athenæum, l. xii, p. 517), describe the luxury and lust of the Etruscans: πολυ μεν τοι γε χαιρουσι συνοντες τοις παισι και τοις μειρακιοις. About the same period, (A. U. C. 445), the Roman youth studied in Etruria, (Liv. ix, 36).

[h] The Persians had been corrupted in the same school: απ' Ελληνων μαθοντες παισι μισγονται, (Herodot. l. i, c. 135). A curious dissertation might be formed on the introduction of pæderasty after the time of Homer, its progress among the Greeks of Asia and Europe, the vehemence of their passions, and the thin device of virtue and friendship which amused the philosophers of Athens. But, scelera ostendi oportet dum puniuntur, abscondi flagitia.

[i] The name, the date, and the provisions of this law, are equally doubtful, (Gravina, Opp. p. 432, 433. Heineccius, Hist. Jur. Rom. No. 108. Ernesti, Clav. Ciceron. in Indice Legum). But I will observe that the nefanda Venus of the honest German is styled aversa by the more polite Italian.

genuous youth, was compensated, as a personal injury, by the poor damages of ten thousand sesterces, or fourscore pounds; the ravisher might be slain by the resistance or revenge of chastity; and I wish to believe, that at Rome, as in Athens, the voluntary and effeminate deserter of his sex was degraded from the honours and the rights of a citizen.[k] But the practice of vice was not discouraged by the severity of opinion: the indelible stain of manhood was confounded with the more venial transgressions of fornication and adultery, nor was the licentious lover exposed to the same dishonour which he impressed on the male or female partner of his guilt. From Catullus to Juvenal,[l] the poets accuse and celebrate the degeneracy of the times, and the reformation of manners was feebly attempted by the reason and authority of the civilians, till the most virtuous of the Cæsars proscribed the sin against nature as a crime against society.[m] CHAP. XLIV.

A new spirit of legislation, respectable even in its error, arose in the empire with the religion of Constantine.[n] The laws of Moses were Rigour of the Christian emperors.

[k] See the Oration of Æschines against the catamite Timarchus, (in Reiske, Orator. Græc. tom. iii, p. 21-184).

[l] A crowd of disgraceful passages will force themselves on the memory of the classic reader: I will only remind him of the cool declaration of Ovid.—

Odi concubitus qui non utrumque resolvunt.
Hoc est quod puerum tangar amore minus.

[m] Ælius, Lampridius, in Vit. Heliogabal. in Hist. August. p. 112. Aurelius Victor, in Philippo, Codex Theodos. l. ix, tit. vii, leg. 7, and Godefray's Commentary, tom. iii, p. 63. Theodosius abolished the subterraneous brothels of Rome, in which the prostitution of both sexes was acted with impunity.

[n] See the laws of Constantine and his successors against adultery, sodomy, &c. in the Theodosian (l. ix, tit. vii, leg. 7; l. xi, tit. xxxvi.

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received as the divine original of justice, and the Christian princes adapted their penal statutes to the degrees of moral and religious turpitude. Adultery was first declared to be a capital offence; the frailty of the sexes was assimilated to poison or assassination, to sorcery or parricide; the same penalties were inflicted on the passive and active guilt of pæderasty; and all criminals of free or servile condition were either drowned or beheaded, or cast alive into the avenging flames. The adulterers were spared by the common sympathy of mankind; but the lovers of their own sex were pursued by general and pious indignation; the impure manners of Greece still prevailed in the cities of Asia, and every vice was fomented by the celibacy of the monks and clergy. Justinian relaxed the punishment at least of female infidelity; the guilty spouse was only condemned to solitude and penance, and at the end of two years she might be recalled to the arms of a forgiving husband. But the same emperor declared himself the implacable enemy of unmanly lust, and the cruelty of his persecution can scarcely be excused by the purity of his motives.[o] In defiance of every principle of justice, he stretched to past as well as future offences the operations of his edicts, with the previous allowance of a short respite for con-

leg. i, 4) and Justinian Codes (l. ix, tit. ix, leg. 30, 31). These princes speak the language of passion as well as of justice, and fraudulently ascribe their own severity to the first Cæsars.

[o] Justinian, Novel. lxxvii, cxxxiv, cxli. Procopius, in Anecdot. c. 11, 16, with the Notes of Alemannus. Theophanes, p. 151. Cedrenus, p. 368. Zonaras, l. xiv, p. 64.

fession and pardon. A painful death was inflicted by the amputation of the sinful instrument, or the insertion of sharp reeds into the pores and tubes of most exquisite sensibility; and Justinian defended the propriety of the execution, since the criminals would have lost their hands, had they been convicted of sacrilege. In this state of disgrace and agony, two bishops, Isaiah of Rhodes, and Alexander of Diospolis, were dragged through the streets of Constantinople, while their brethren were admonished by the voice of a crier, to observe this awful lesson, and not to pollute the sanctity of their character. Perhaps these prelates were innocent. A sentence of death and infamy was often founded on the slight and suspicious evidence of a child or a servant; the guilt of the green faction, of the rich, and of the enemies of Theodora, was presumed by the judges, and pæderasty became the crime of those to whom no crime could be imputed. A French philosopher [p] has dared to remark, that whatever is secret must be doubtful, and that our natural horror of vice may be abused as an engine of tyranny. But the favourable persuasion of the same writer, that a legislator may confide in the taste and reason of mankind, is impeached by the unwelcome discovery of the antiquity and extent of the disease [q].

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[p] Montesquieu, Esprit des Loix, l. xii, c. 6. That eloquent philosopher conciliates the rights of liberty and of nature, which should never be placed in opposition to each other.

[q] For the corruption of Palestine, 2000 years before the Christian

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Judgments of the people.

The free citizens of Athens and Rome enjoyed, in all criminal cases, the invaluable privilege of being tried by their country.[r] 1. The administration of justice is the most ancient office of a prince: it was exercised by the Roman kings, and abused by Tarquin; who alone, without law or council, pronounced his arbitrary judgments. The first consuls succeeded to this regal prerogative; but the sacred right of appeal soon abolished the jurisdiction of the magistrates, and all public causes were decided by the supreme tribunal of the people. But a wild democracy, superior to the forms, too often disdains the essential principles, of justice: the pride of despotism was envenomed by plebeian envy, and the heroes of Athens might sometimes applaud the happiness of the Persian, whose fate depended on the caprice of a *single* tyrant. Some salutary restraints, im-

era, see the history and laws of Moses. Ancient Gaul is stigmatized by Diodorus Siculus, (tom. i, l. v, p. 356); China by the Mahometan and Christian travellers, (Ancient Relations of India and China, p. 34, translated by Renaudot, and his bitter critic, the Pere Premare, Lettres Edifiantes, tom. xix, p. 435), and native America by the Spanish historians, (Garcillasso de la Vega, l. iii, c. 13, Rycaut's translation; and Dictionaire de Bayle, tom. iii, p. 88). I believe, and hope, that the negroes, in their own country, were exempt from this moral pestilence.

[r] The important subject of the public questions and judgments at Rome is explained with much learning, and in a classic style, by Charles Sigonius, (l. iii, de Judiciis, in Opp. tom. iii, 679-864); and a good abridgment may be found in the Republique Romaine of Beaufort, (tom. i, l. v, p. 1-121). Those who wish for more abstruse law, may study Noodt, (de Jurisdictione et Imperio Libri duo, tom. i, p. 93-131); Heineccius, (ad Pandect. l. i et ii, ad Institut. l. iv, tit. xvii; Element. ad Antiquitat.). and Gravina, (Opp. 230-251).

posed by the people on their own passions, were at once the cause and effect of the gravity and temperance of the Romans. The right of accusation was confined to the magistrates. A vote of the thirty-five tribes could inflict a fine: but the cognisance of all capital crimes was reserved by a fundamental law to the assembly of the centuries, in which the weight of influence and property was sure to preponderate. Repeated proclamations and adjournments were interposed, to allow time for prejudice and resentment to subside; the whole proceeding might be annulled by a seasonable omen, or the opposition of a tribune; and such popular trials were commonly less formidable to innocence, than they were favourable to guilt. But this union of the judicial and legislative powers, left it doubtful whether the accused party was pardoned or acquitted; and in the defence of an illustrious client, the orators of Rome and Athens addressed their arguments to the policy and benevolence, as well as to the justice, of their sovereign. 2. The task of convening the citizens for the trial of each offender became more difficult, as the citizens and the offenders continually multiplied; and the ready expedient was adopted of delegating the jurisdiction of the people to the ordinary magistrates, or to extraordinary *inquisitors*. In the first ages these questions were rare and occasional. In the beginning of the seventh century of Rome they were made perpetual; four prætors were annually empowered to sit in judgment on the state offences of treason, extortion, peculation,

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and bribery; and Sylla added new prætors and new questions for those crimes which more directly injure the safety of individuals. By these *inquisitors* the trial was prepared and directed; but they could only pronounce the sentence of the majority of *judges*, who with some truth, and more prejudice, have been compared to the English juries.[s] To discharge this important though burdensome office, an annual list of ancient and respectable citizens was formed by the prætor. After many constitutional struggles, they were chosen in equal numbers from the senate, the equestrian order, and the people; four hundred and fifty were appointed for single questions; and the various rolls or *decuries* of judges must have contained the names of some thousand Romans, who represented the judicial authority of the state. In each particular cause, a sufficient number was drawn from the urn; their integrity was guarded by an oath; the mode of ballot secured their independence; the suspicion of partiality was removed by the mutual challenges of the accuser and defendant: and the judges of Milo, by the retrenchment of fifteen on each side, were reduced to fifty-one voices or tablets, of acquittal, of condemnation, or of favourable doubt.[t]

Select judges.

[s] The office, both at Rome and in England, must be considered as an occasional duty, and not a magistracy or profession. But the obligation of an unanimous verdict is peculiar to our laws, which condemn the jurymen to undergo the torture from whence they have exempted the criminal.

[t] We are indebted for this interesting fact to a fragment of Asconius Pedianus, who flourished under the reign of Tiberius. The

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3. In his civil jurisdiction, the prætor of the city was truly a judge, and almost a legislator; but as soon as he had prescribed the action of law, he often referred to a delegate the determination of the fact. With the increase of legal proceedings, the tribunal of the centumvirs, in which he presided, acquired more weight and reputation. But whether he acted alone, or with the advice of his council, the most absolute powers might be trusted to a magistrate who was annually chosen by the votes of the people. The rules and precautions of freedom have required some explanation; the order of despotism is simple and inanimate. Before the age of Justinian, or perhaps of Diocletian, the decuries of Roman judges had sunk to an empty title; the humble advice of the assessors might be accepted or despised; and in each tribunal the civil and criminal jurisdiction was administered by a single magistrate, who was raised and disgraced by the will of the emperor.

Assessors.

A Roman accused of any capital crime might prevent the sentence of the law by voluntary exile, or death. Till his guilt had been legally proved, his innocence was presumed, and his person was free; till the votes of the last *century* had been counted and declared, he might peaceably secede to any of the allied cities of Italy, or Greece, or Asia.[a] His fame and fortunes were preserved, at least to his children,

Voluntary exile and death.

loss of his Commentaries on the Orations of Cicero has deprived us of a valuable fund of historical and legal knowledge.

[a] Polyb. l. vi, p. 643. The extension of the empire and city of Rome, obliged the exile to seek a more distant place of retirement.

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by this civil death; and he might still be happy in every rational and sensual enjoyment, if a mind accustomed to the ambitious tumult of Rome could support the uniformity and silence of Rhodes or Athens. A bolder effort was required to escape from the tyranny of the Cæsars; but this effort was rendered familiar by the maxims of the Stoics, the examples of the bravest Romans, and the legal encouragements of suicide. The bodies of condemned criminals were exposed to public ignominy, and their children, a more serious evil, were reduced to poverty by the confiscation of their fortunes. But if the victims of Tiberius and Nero anticipated the decree of the prince or senate, their courage and dispatch were recompensed by the applause of the public, the decent honours of burial, and the validity of their testaments.[x] The exquisite avarice and cruelty of Domitian appear to have deprived the unfortunate of this last consolation, and it was still denied even by the clemency of the Antonines. A voluntary death, which, in the case of a capital offence, intervened between the accusation and the sentence, was admitted as a confession of guilt, and the spoils of the deceased were seized by the inhuman claims of the treasury.[y] Yet the

[x] Qui de se statuebant, humabantur corpora, manebant testamenta; pretium festinandi. Tacit. Annal. vi, 25, with the notes of Lipsius.

[y] Julius Paulus, (Sentent. Recept. l. v, tit. xii, p. 476); the Pandects, (l. xlviii, tit. xxi); the Code, (l. ix, tit. l.); Bynkershoek, (tom. i, p. 59; Observat. J. C. R. iv, 4). and Montesquieu, (Esprit des Loix, l. xxix, c. 9), define the civil limitations of the liberty and privileges of suicide. The criminal penalties are the production of a later and darker age.

civilians have always respected the natural right of a citizen to dispose of his life; and the posthumous disgrace invented by Tarquin[x] to check the despair of his subjects, was never revived or imitated by succeeding tyrants. The powers of this world have indeed lost their dominion over him who is resolved on death; and his arm can only be restrained by the religious apprehension of a future state. Suicides are enumerated by Virgil among the unfortunate, rather than the guilty;[y] and the poetical fables of the infernal shades could not seriously influence the faith or practice of mankind. But the precepts of the gospel, or the church, have at length imposed a pious servitude on the minds of Christians, and condemn them to expect, without a murmur, the last stroke of disease or the executioner. CHAP. XLIV.

The penal statutes form a very small proportion of the sixty-two books of the code and pandects; and, in all judicial proceeding, the life or death of a citizen is determined with less caution and delay than the most ordinary question of covenant or inheritance. This singular distinction, though something may be allowed for the urgent necessity of defending the peace of society, is derived from the nature of criminal Abuses of civil jurisprudence.

[x] Plin. Hist. Natur. xxxvi, 24. When he fatigued his subjects in building the Capitol, many of the labourers were provoked to dispatch themselves; he nailed their dead bodies to crosses.

[y] The sole resemblance of a violent and premature death has engaged Virgil (Æneid, vi, 434-439) to confound suicides with infants, lovers, and persons unjustly condemned. Heyne, the best of his editors, is at a loss to deduce the idea, or ascertain the jurisprudence, of the Roman poet.

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and civil jurisprudence. Our duties to the state are simple and uniform; the law by which he is condemned, is inscribed not only on brass or marble, but on the conscience of the offender, and his guilt is commonly proved by the testimony of a single fact. But our relations to each other are various and infinite: our obligations are created, annulled, and modified, by injuries, benefits, and promises; and the interpretation of voluntary contracts and testaments, which are often dictated by fraud or ignorance, affords a long and laborious exercise to the sagacity of the judge. The business of life is multiplied by the extent of commerce and dominion, and the residence of the parties in the distant provinces of an empire, is productive of doubt, delay, and inevitable appeals from the local to the supreme magistrate. Justinian, the Greek emperor of Constantinople and the East, was the legal successor of the Latian shepherd who had planted a colony on the banks of the Tiber. In a period of thirteen hundred years, the laws had reluctantly followed the changes of government and manners; and the laudable desire of conciliating ancient names with recent institutions, destroyed the harmony, and swelled the magnitude, of the obscure and irregular system. The laws which excuse on any occasions the ignorance of their subjects, confess their own imperfections; the civil jurisprudence, as it was abridged by Justinian, still continued a mysterious science and a profitable trade, and the innate perplexity of the study was involved in tenfold darkness by the private industry of

the practitioners. The expence of the pursuit sometimes exceeded the value of the prize, and the fairest rights were abandoned by the poverty or prudence of the claimants. Such costly justice might tend to abate the spirit of litigation, but the unequal pressure serves only to increase the influence of the rich, and to aggravate the misery of the poor. By these dilatory and expensive proceedings, the wealthy pleader obtains a more certain advantage than he could hope from the accidental corruption of his judge. The experience of an abuse, from which our own age and country are not perfectly exempt, may sometimes provoke a generous indignation, and extort the hasty wish of exchanging our elaborate jurisprudence for the simple and summary decrees of a Turkish cadhi. Our calmer reflection will suggest, that such forms and delays are necessary to guard the person and property of the citizen; that the discretion of the judge is the first engine of tyranny, and that the laws of a free people should foresee and determine every question that may probably arise in the exercise of power and the transactions of industry. But the government of Justinian united the evils of liberty and servitude; and the Romans were oppressed at the same time by the multiplicity of their laws and the arbitrary will of their master. CHAP. XLIV.

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Reign of the younger Justin—Embassy of the Avars—Their settlement on the Danube—Conquest of Italy by the Lombards—Adoption and reign of Tiberius—Of Maurice—State of Italy under the Lombards and the exarchs—Of Ravenna—Distress of Rome—Character and pontificate of Gregory I.

CHAP. XLV.

Death of Justinian, A. D. 565. Nov. 14.

DURING the last years of Justinian, his infirm mind was devoted to heavenly contemplation, and he neglected the business of the lower world. His subjects were impatient of the long continuance of his life and reign: yet all who were capable of reflection, apprehended the moment of his death, which might involve the capital in tumult, and the empire in civil war. Seven nephews[1] of the childless monarch, the sons or grandsons of his brother and sister, had been educated in the splendour of a princely fortune; they had been shown in high commands to the provinces and armies; their characters were known, their followers were zealous, and as the jealousy of age postponed the declaration of a successor, they might expect with equal hopes

[1] See the family of Justin and Justinian in the Familiæ Byzantinæ of Ducange, p. 89-101. The devout civilians, Ludewig (in Vit. Justinian. p. 131) and Heineccius, (Hist. Juris. Roman. p. 374,) have since illustrated the genealogy of their favourite prince.

the inheritance of their uncle. He expired in his palace after a reign of thirty-eight years; and the decisive opportunity was embraced by the friends of Justin the son of Vigilantia.[b] At the hour of midnight, his domestics were awakened by an importunate crowd, who thundered at his door, and obtained admittance by revealing themselves to be the principal members of the senate. These welcome deputies announced the recent and momentous secret of the emperor's decease: reported, or perhaps invented, his dying choice of the best beloved and most deserving of his nephews, and conjured Justin to prevent the disorders of the multitude, if they should perceive, with the return of light, that they were left without a master. After composing his countenance to surprise, sorrow, and decent modesty, Justin, by the advice of his wife Sophia, submitted to the authority of the senate. He was conducted with speed and silence to the palace; the guards saluted their new sovereign, and the martial and religious rites of his coronation were diligently accomplished. By the hands of the proper officers he was invested with the imperial garments, the red buskins, white tunic, and purple robe. A fortunate soldier, whom he instantly promoted to the rank of tribune, encircled his neck with a military collar: four robust youths exalted him on a shield; he stood firm and

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[b] In the story of Justin's elevation I have translated into simple and concise prose, the eight hundred verses of the two first books of Corippus, De Laudibus Justini, Appendix Hist. Byzant. p. 401-416, Rome, 1777.

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Reign of Justin II, or the Younger, A. D. 565, Nov. 15. A. D. 574, December.

erect to receive the adoration of his subjects; and their choice was sanctioned by the benediction of the patriarch, who imposed the diadem on the head of an orthodox prince. The hippodrome was already filled with innumerable multitudes; and no sooner did the emperor appear on his throne, than the voices of the blue and the green factions were confounded in the same loyal acclamations. In the speeches which Justin addressed to the senate and people, he promised to correct the abuses which had disgraced the age of his predecessor, displayed the maxims of a just and beneficent government, and declared, that on the approaching calends of January,[c] he would revive in his own person the name and liberality of a Roman consul. The immediate discharge of his uncle's debts exhibited a solid pledge of his faith and generosity; a train of porters laden with bags of gold advanced into the midst of the hippodrome, and the hopeless creditors of Justinian accepted this equitable payment as a voluntary gift. Before the end of three years, his example was imitated and surpassed by the empress Sophia, who delivered many indigent citizens from the weight of debt and usury: an act of benevolence the best entitled to gratitude, since it relieves the most intolerable distress; but in which the bounty of a prince is

His consulship. A. D. 566, January 1.

[c] It is surprising how Pagi (Critica in Annal. Baron. tom. ii, p. 639) could be tempted by any chronicles to contradict the plain and decisive text of Corippus, (vicina dona, l. ii, 354; vicina dies, l. iv, 1), and to postpone, till A. D. 567, the consulship of Justin.

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the most liable to be abused by the claims of prodigality and fraud.[d]

Embassy of the Avars, A. D. 566.

On the seventh day of his reign, Justin gave audience to the ambassadors of the Avars, and the scene was decorated to impress the barbarians with astonishment, veneration, and terror. From the palace-gate, the spacious courts and long porticoes were lined with the lofty crests and gilt bucklers of the guards, who presented their spears and axes with more confidence than they would have shewn in a field of battle. The officers who exercised the power, or attended the person, of the prince, were attired in their richest habits, and arranged according to the military and civil order of the hierarchy. When the veil of the sanctuary was withdrawn, the ambassadors beheld the emperor of the East on his throne, beneath a canopy or dome, which was supported by four columns, and crowned with a winged figure of victory. In the first emotions of surprise, they submitted to the servile adoration of the Byzantine court; but as soon as they rose from the ground, Targetius, the chief of the embassy, expressed the freedom and pride of a barbarian. He extolled, by the tongue of his interpreter, the greatness of the chagan, by whose clemency the kingdoms of the South were permitted to exist, whose victorious subjects had traversed the frozen rivers of Scythia, and who now covered the banks of the Danube with innumerable tents. The late

[d] Theophan. Chronograph. p. 205. Whenever Cedrenus or Zonaras are mere transcribers, it is superfluous to allege their testimony.

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emperor had cultivated, with annual and costly gifts, the friendship of a grateful monarch, and the enemies of Rome had respected the allies of the Avars. The same prudence would instruct the nephew of Justinian to imitate the liberality of his uncle, and to purchase the blessings of peace from an invincible people, who delighted and excelled in the exercise of war. The reply of the emperor was delivered in the same strain of haughty defiance, and he derived his confidence from the God of the Christians, the ancient glory of Rome, and the recent triumphs of Justinian. "The empire," said he, "abounds with men and horses, and "arms sufficient to defend our frontiers, and to "chastise the barbarians. You offer aid, you "threaten hostilities: we despise your enmity "and your aid. The conquerors of the Avars "solicit our alliance; shall we dread their fu-"gitives and exiles?[a] The bounty of our un-"cle was granted to your misery, to your hum-"ble prayers. From us you shall receive a "more important obligation, the knowledge "of your own weakness. Retire from our pre-

[a] Corippus, l. iii, 90. The unquestionable sense relates to the Turks, the conquerors of the Avars; but the word scultor has no apparent meaning, and the sole MS. of Corippus, from whence the first edition (1581, apud Plantin) was printed, is no longer visible. The last editor, Peggini of Rome, has inserted the conjectural emendation of Caldan: but the proofs of Ducange (Joinville, Dissert. xxi, p. 238-240) for the early use of this title among the Turks and Persians, are weak or ambiguous. And I must incline to the authority of d'Herbelot, (Bibliothèque Orient. p. 825), who ascribes the word to the Arabic and Chaldæan tongues, and the date to the beginning of the eleventh century, when it was bestowed by the khalif of Bagdad on Mahmud prince of Gazna, and conqueror of India.

"sence; the lives of ambassadors are safe; and "if you return to implore our pardon, perhaps "you will taste of our benevolence."[f] On the report of his ambassadors, the chagan was awed by the apparent firmness of a Roman emperor, of whose character and resources he was ignorant. Instead of executing his threats against the eastern empire, he marched into the poor and savage countries of Germany, which were subject to the dominion of the Franks. After two doubtful battles, he consented to retire; and the Austrasian king relieved the distress of his camp with an immediate supply of corn and cattle.[g] Such repeated disappointments had chilled the spirit of the Avars; and their power would have dissolved away in the Sarmatian desert, if the alliance of Alboin, king of the Lombards, had not given a new object to their arms, and a lasting settlement to their wearied fortunes. CHAP. XLV.

Alboin king of the Lombards—his valour, love, and revenge.

While Alboin served under his father's standard, he encountered in battle, and transpierced with his lance, the rival prince of the Gepidæ. The Lombards, who applauded such early prowess, requested his father, with unanimous acclamations, that the heroic youth, who had shared the dangers of the field, might be ad-

[f] For these characteristic speeches, compare the verse of Coripus, (l. iii, 401-401) with the prose of Menander, (Excerpt. Legation. p. 102, 103). Their diversity proves that they did not copy each other; their resemblance, that they drew from a common original.

[g] For the Austrasian war, see Menander, (Excerpt. Legat. p. 110); Gregory of Tours, Hist. Franc. l. iv, c. 29), and Paul the deacon, (de Gest. Langobard. l. ii, c. 10).

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mitted to the feast of victory. "You are not unmindful," replied the inflexible Audoin, "of the wise customs of our ancestors. Whatever may be his merit, a prince is incapable of sitting at table with his father till he has received his arms from a foreign and royal hand." Alboin bowed with reverence to the institutions of his country; selected forty companions, and boldly visited the court of Turisund king of the Gepidæ, who embraced and entertained, according to the laws of hospitality, the murderer of his son. At the banquet, whilst Alboin occupied the seat of the youth whom he had slain, a tender remembrance arose in the mind of Turisund. "How dear is that place—how hateful is that person—" were the words that escaped, with a sigh, from the indignant father. His grief exasperated the national resentment of the Gepidæ; and Cunimund, his surviving son, was provoked by wine, or fraternal affection, to the desire of vengeance. "The Lombards," said the rude barbarian, "resemble, in figure and in smell, the mares of our Sarmatian plains." And this insult was a coarse allusion to the white bands which enveloped their legs. "Add another resemblance," replied an audacious Lombard; "you have felt how strongly they kick. Visit the plain of Asfield, and seek for the bones of thy brother: they are mingled with those of the vilest animals." The Gepidæ, a nation of warriors, started from their seats, and the fearless Alboin, with his forty companions, laid their hands on their swords. The tumult

was appeased by the venerable interposition of Turisund. He saved his own honour and the life of his guest: and after the solemn rites of investiture, dismissed the stranger in the bloody arms of his son; the gift of a weeping parent. Alboin returned in triumph; and the Lombards, who celebrated his matchless intrepidity, were compelled to praise the virtues of an enemy.[h] In this extraordinary visit he had probably seen the daughter of Cunimund, who soon after ascended the throne of the Gepidæ. Her name was Rosamond, an appellation expressive of female beauty, and which our own history or romance has consecrated to amorous tales. The king of the Lombards (the father of Alboin no longer lived) was contracted to the grand-daughter of Clovis; but the restraints of faith and policy soon yielded to the hope of possessing the fair Rosamond, and of insulting her family and nation. The arts of persuasion were tried without success: and the impatient lover, by force and stratagem, obtained the object of his desires. War was the consequence which he foresaw and solicited; but the Lombards could not long withstand the furious assault of the Gepidæ, who were sustained by a Roman army. And as the offer of marriage was rejected with contempt, Alboin was compelled to relinquish his prey, and to partake of

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[h] Paul Warnefrid, the deacon of Friuli, de Gest. Langobard. l. i. c. 23, 24. His pictures of national manners, though rudely sketched, are more lively and faithful than those of Bede, or Gregory of Tours.

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the disgrace which he had inflicted on the house of Cunimund.[1]

The Lombards and Avars destroy the king and kingdom of the Gepidæ. A. D. 566.

When a public quarrel is envenomed by private injuries, a blow that is not mortal or decisive can be productive only of a short truce, which allows the unsuccessful combatant to sharpen his arms for a new encounter. The strength of Alboin had been found unequal to the gratification of his love, ambition, and revenge: he condescended to implore the formidable aid of the chagan; and the arguments that he employed are expressive of the art and policy of the barbarians. In the attack of the Gepidæ, he had been prompted by the just desire of extirpating a people whom their alliance with the Roman empire had rendered the common enemies of the nations, and the personal adversaries of the chagan. If the forces of the Avars and the Lombards should unite in this glorious quarrel, the victory was secure, and the reward inestimable: the Danube, the Hebrus, Italy, and Constantinople, would be exposed, without a barrier, to their invincible arms. But if they hesitated or delayed to prevent the malice of the Romans, the same spirit which had insulted, would pursue the Avars to the extremity of the earth. These specious reasons were heard by the chagan with coldness and disdain: he detained the Lombard ambassadors in his camp, protracted the negotiation, and by turns alleged his want of incli-

[1] The story is told by an impostor, (Theophylact. Symocat. l. vi, c. 10;) but he had art enough to build his fictions on public and notorious facts.

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nation, or his want of ability, to undertake this important enterprise. At length he signified the ultimate price of his alliance, that the Lombards should immediately present him with the tithe of their cattle; that the spoils and captives should be equally divided; but that the lands of the Gepidæ should become the sole patrimony of the Avars. Such hard conditions were eagerly accepted by the passions of Alboin; and as the Romans were dissatisfied with the ingratitude and perfidy of the Gepidæ, Justin abandoned that incorrigible people to their fate, and remained the tranquil spectator of this unequal conflict. The despair of Cunimund was active and dangerous. He was informed that the Avars had entered his confines; but on the strong assurance, that, after the defeat of the Lombards, these foreign invaders would easily be repelled, he rushed forwards to encounter the implacable enemy of his name and family. But the courage of the Gepidæ could secure them no more than an honourable death. The bravest of the nation fell in the field of battle; the king of the Lombards contemplated with delight the head of Cunimund; and his skull was fashioned into a cup, to satiate the hatred of the conqueror, or, perhaps, to comply with the savage custom of his country.[k]

[k] It appears from Strabo, Pliny, and Ammianus Marcellinus, that the same practice was common among the Scythian tribes, (Muratori, Scriptores Rer. Italic. tom. i, p. 424). The scalps of North America are likewise trophies of valour. The skull of Cunimund was preserved above two hundred years among the Lombards; and Paul himself was one of the guests to whom Duke Ratchis exhibited this cup on a high festival, (l. ii, c. 28).

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After this victory, no farther obstacle could impede the progress of the confederates, and they faithfully executed the terms of their agreement.[1] The fair countries of Walachia, Moldavia, Transylvania, and the parts of Hungary beyond the Danube, were occupied, without resistance, by a new colony of Scythians: and the Dacian empire of the chagans subsisted with splendour above two hundred and thirty years. The nation of the Gepidæ was dissolved; but in the distribution of the captives, the slaves of the Avars were less fortunate than the companions of the Lombards, whose generosity adopted a valiant foe, and whose freedom was incompatible with cool and deliberate tyranny. One moiety of the spoil introduced into the camp of Alboin more wealth than a barbarian could readily compute. The fair Rosamond was persuaded, or compelled, to acknowledge the rights of her victorious lover; and the daughter of Cunimund appeared to forgive those crimes which might be imputed to her own irresistible charms.

Alboin undertakes the conquest of Italy, A. D. 567.

The destruction of a mighty kingdom established the fame of Alboin. In the days of Charlemagne, the Bavarians, the Saxons, and the other tribes of the Teutonic language, still repeated the songs which described the heroic virtues, the valour, liberality, and fortune of the king of the Lombards.[m] But his ambition was

[1] Paul, l. i, c. 27. Menander, in Excerpt. Legat. p 110, 111.

[m] "Ut hactenus etiam tam apud Bajouriorum gentem, quam et S. . . . omum, sed et alios ejusdem linguæ homines . . . . in eorum carminibus celebretur. Paul. l. i, c. 27. He died A. D. 799, (Muratori,

yet unsatisfied; and the conqueror of the Gepidæ turned his eyes from the Danube to the richer banks of the Po and the Tiber. Fifteen years had not elapsed, since his subjects, the confederates of Narses, had visited the pleasant climate of Italy: the mountains, the rivers, the highways, were familiar to their memory: the report of their success, perhaps the view of their spoils, had kindled in the rising generation the flame of emulation and enterprise. Their hopes were encouraged by the spirit and eloquence of Alboin; and it is affirmed, that he spoke to their senses, by producing, at the royal feast, the fairest and most exquisite fruits that grew spontaneously in the garden of the world. No sooner had he erected his standard, than the native strength of the Lombards was multiplied by the adventurous youth of Germany and Scythia. The robust peasantry of Noricum and Panonia had resumed the manners of barbarians; and the names of the Gepidæ, Bulgarians, Sarmatians, and Bavarians, may be distinctly traced in the provinces of Italy.[n] Of the Saxons, the old allies of the Lombards, twenty thousand warriors, with their wives and children, accepted the invitation of Alboin. CHAP. XLV.

in Præfat. tom. i, p. 397). These German songs, some of which might be as old as Tacitus, (de Moribus Germ. c. 2), were compiled and transcribed by Charlemagne. Barbara et antiquissima carmina, quibus veterum regum actus et bella canebantur, scripsit, memoriæque mandavit, (Eginard, in Vit. Carol. Magn. c. 29, p. 130, 131). The poems, which Goldast commends, (Animadvers. ad Eginard, p. 207), appear to be recent and contemptible romances.

[n] The other nations are rehearsed by Paul, (l. ii, c. 6, 26). Muratori (Antichita Italiane, tom. i, dissert. i, p. 4) has discovered the village of the Bavarians, three miles from Modena.

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Their bravery contributed to his success; but the accession or the absence of their numbers was not sensibly felt in the magnitude of his host. Every mode of religion was freely practised by its respective votaries. The king of the Lombards had been educated in the Arian heresy; but the catholics, in their public worship, were allowed to pray for his conversion; while the more stubborn barbarians sacrificed a she-goat, or perhaps a captive, to the gods of their fathers. * The Lombards, and their confederates, were united by their common attachment to a chief, who excelled in all the virtues and vices of a savage hero; and the vigilance of Alboin provided an ample magazine of offensive and defensive arms for the use of the expedition. The portable wealth of the Lombards attended the march; their lands they cheerfully relinquished to the Avars, on the solemn promise, which was made and accepted without a smile, that if they failed in the conquest of Italy, these voluntary exiles should be reinstated in their former possessions.

Dissaffection and death of Narses.

They might have failed, if Narses had been the antagonist of the Lombards; and the veteran warriors, the associates of his Gothic victory, would have encountered with reluctance an enemy whom they dreaded and esteemed. But the weakness of the Byzantine court was subservient to the barbarian cause; and it was for

* Gregory the Roman (Dialog. l. iii, c. 27, 28, apud Baron. Annal. Eccles. A. D. 579, No. 10) supposes that they likewise adored this she-goat. I know but of one religion in which the god and the victim are the same.

the ruin of Italy, that the emperor once listened to the complaints of his subjects. The virtues of Narses were stained with avarice; and in his provincial reign of fifteen years he accumulated a treasure of gold and silver which surpassed the modesty of a private fortune. His government was oppressive or unpopular, and the general discontent was expressed with freedom by the deputies of Rome. Before the throne of Justin they boldly declared, that their Gothic servitude had been more tolerable than the despotism of a Greek eunuch; and that, unless their tyrant were instantly removed, they would consult their own happiness in the choice of a master. The apprehension of a revolt was urged by the voice of envy and detraction, which had so recently triumphed over the merit of Belisarius. A new exarch, Longinus, was appointed to supersede the conqueror of Italy; and the base motives of his recall were revealed in the insulting mandate of the empress Sophia, "that he should leave to *men* the exercise of "arms, and return to his proper station among "the maidens of the palace, where a distaff "should be again placed in the hand of the "eunuch." "I will spin her such a thread, as she "shall not easily unravel!" is said to have been the reply which indignation and conscious virtue extorted from the hero. Instead of attending, a slave and a victim, at the gate of the Byzantine palace, he retired to Naples, from whence (if any credit is due to the belief of the times) Narses invited the Lombards to chastise

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the ingratitude of the prince and people.[p] But the passions of the people are furious and changeable; and the Romans soon recollected the merits, or dreaded the resentment, of their victorious general. By the mediation of the pope, who undertook a special pilgrimage to Naples, their repentance was accepted; and Narses, assuming a milder aspect and a more dutiful language, consented to fix his residence in the Capitol. His death,[q] though in the extreme period of old age, was unseasonable and premature, since *his* genius alone could have repaired the last and fatal error of his life. The reality, or the suspicion, of a conspiracy disarmed and disunited the Italians. The soldiers resented the disgrace, and bewailed the loss, of their general. They were ignorant of their new exarch; and Longinus was himself ignorant of the state of the army and the province. In the preceding years Italy had been desolated by pestilence and famine; and disaffected people ascribed the calamities of nature to the guilt or folly of their rulers.[r]

[p] The charge of the deacon against Narses (l. ii, c. 5) may be groundless; but the weak apology of the cardinal (Baron. Annal. Eccles. A. D. 567, N°. 8-12) is rejected by the best critics—Pagi, (tom. ii, p. 639, 640); Muratori, (Annali d'Italia, tom. v, p. 160-163), and the last editors, Horatius Blancus (Script. Rerum Italic. tom. i, p. 427, 428) and Philip Argelatus, (Sigon. Opera, tom. ii, p. 11, 12). The Narses who assisted at the coronation of Justin, (Corippus, l. iii, 221), is clearly understood to be a different person.

[q] The death of Narses is mentioned by Paul, l. ii, c. 11; Anastas. in Vit. Johan. iii, p. 43; Agnellus, Liber Pontifical. Raven. in Script. Rer. Italicarum, tom. ii, part i, p. 114, 124. Yet I cannot believe with Agnellus that Narses was ninety-five years of age. Is it probable that all his exploits were performed at fourscore?

[r] The designs of Narses and of the Lombards for the invasion of

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Conquest of a great part of Italy by the Lombards. A. D. 568. 570.

Whatever might be the grounds of his security, Alboin neither expected nor encountered a Roman army in the field. He ascended the Julian Alps, and looked down with contempt and desire on the fruitful plains to which his victory communicated the perpetual appellation of LOMBARDY. A faithful chieftain, and a select band, were stationed at Forum Julii, the modern Friuli, to guard the passes of the mountains. The Lombards respected the strength of Pavia, and listened to the prayers of the Trevisans: their slow and heavy multitudes proceeded to occupy the palace and city of Verona; and Milan, now rising from her ashes, was invested by the powers of Alboin five months after his departure from Pannonia. Terror preceded his march; he found everywhere, or he left, a dreary solitude; and the pusillanimous Italians presumed, without a trial, that the stranger was invincible. Escaping to lakes, or rocks, or morasses, the affrighted crowds concealed some fragments of their wealth, and delayed the moment of their servitude. Paulinus, the patriarch of Aquileia, removed his treasures, sacred and profane, to the isle of Grado,* and his successors were adopted by the infant re-

Italy, are exposed in the last chapter of the first book, and the seven first chapters of the second book, of Paul the deacon.

* Which from this translation was called New Aquileia, (Chron. Venet. p. 8). The patriarch of Grado soon became the first citizen of the republic, (p. 9, &c.), but his seat was not removed to Venice till the year 1450. He is now decorated with titles and honours; but the genius of the church has bowed to that of the state, and the government of a catholic city is strictly presbyterian. Thomassin, Discipline de l'Eglise, tom. i, p. 156, 157, 161-165. Amelot de la Houssaye, Gouvernement de Venise, tom. i, p. 256-261.

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public of Venice, which was continually enriched by the public calamities. Honoratus, who filled the chair of St Ambrose, had credulously accepted the faithless offers of a capitulation; and the Archbishop, with the clergy and nobles of Milan, were driven by the perfidy of Alboin to seek a refuge in the less accessible ramparts of Genoa. Along the maritime coast, the courage of the inhabitants was supported by the facility of supply, the hopes of relief, and the power of escape; but from the Trentine hills to the gates of Ravenna and Rome, the inland regions of Italy became, without a battle or a siege, the lasting patrimony of the Lombards. The submission of the people invited the barbarian to assume the character of a lawful sovereign, and the helpless exarch was confined to the office of announcing to the emperor Justin, the rapid and irretrievable loss of his provinces and cities.[1] One city, which had been diligently fortified by the Goths, resisted the arms of a new invader; and while Italy was subdued by the flying detachments of the Lombards, the royal camp was fixed above three years before the western gate of Ticinum, or Pavia. The same courage which obtains the esteem of a civilized enemy, provokes the fury of a savage, and the impatient besieger had bound himself by a tremendous oath, that age, and sex, and dignity, should be confounded in

[1] Paul has given a description of Italy, as it was then divided, into eighteen regions, (l. ii, c. 14-24). The Dissertatio Chorographica de Italia Medii Ævi, by Father Beretti, a Benedictine monk, and regius professor at Pavia, has been carefully consulted.

a general massacre. The aid of famine at length enabled him to execute his bloody vow; but as Alboin entered the gate, his horse stumbled, fell, and could not be raised from the ground. One of his attendants was prompted by compassion, or piety, to interpret this miraculous sign of the wrath of heaven: the conqueror paused and relented; he sheathed his sword, and, peacefully reposing himself in the palace of Theodoric, proclaimed to the trembling multitude, that they should live and obey. Delighted with the situation of a city, which was endeared to his pride by the difficulty of the purchase, the prince of the Lombards disdained the ancient glories of Milan; and Pavia, during some ages, was respected as the capital of the kingdom of Italy. [u] CHAP. XLV.

Alboin is murdered by his wife Rosamond, A. D. 573. June 28.

The reign of the founder was splendid and transient; and before he could regulate his new conquests, Alboin fell a sacrifice to domestic treason and female revenge. In a palace near Verona which had not been erected for the barbarians, he feasted the companions of his arms; intoxication was the reward of valour, and the king himself was tempted by appetite, or vanity, to exceed the ordinary measure of his intemperance. After draining many capacious bowls of Rhætian or Falernian wine, he called for the skull of Cunimund, the noblest and most precious ornament of his side-board. The cup

[u] For the conquest of Italy, see the original materials of Paul, (l. ii, c. 7-10, 12, 14, 25, 26, 27); the eloquent narrative of Sigonius, (tom. ii. de Regno Italiæ, l. i, p. 13-19), and the correct and critical review of Muratori, (Annali d'Italia, tom. v, p. 161-180).

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of victory was accepted with horrid applause by the circle of the Lombard chiefs. "Fill it again with wine," exclaimed the inhuman conqueror, "fill it to the brim; carry this goblet "to the queen, and request in my name that "she would rejoice with her father." In an agony of grief and rage, Rosamond had strength to utter, "Let the will of my lord be "obeyed!" and touching it with her lips, pronounced a silent imprecation, that the insult should be washed away in the blood of Alboin. Some indulgence might be due to the resentment of a daughter, if she had not already violated the duties of a wife. Implacable in her enmity, or inconstant in her love, the queen of Italy had stooped from the throne to the arms of a subject, and Helmichis, the king's armour-bearer, was the secret minister of her pleasure and revenge. Against the proposal of the murder, he could no longer urge the scruples of fidelity or gratitude; but Helmichis trembled, when he revolved the danger as well as the guilt, when he recollected the matchless strength and intrepidity of a warrior, whom he had so often attended in the field of battle. He pressed and obtained, that one of the bravest champions of the Lombards should be associated to the enterprise; but no more than a promise of secrecy could be drawn from the gallant Peredeus; and the mode of seduction employed by Rosamond betrays her shameless insensibility both to honour and love. She supplied the place of one of her female attendants who was beloved by Peredeus, and contrived some excuse for dark-

ness and silence, till she could inform her companion that he had enjoyed the queen of the Lombards, and that his own death, or the death of Alboin, must be the consequence of such treasonable adultery. In this alternative, he chose rather to be the accomplice than the victim of Rosamond,* whose undaunted spirit was incapable of fear or remorse. She expected, and soon found, a favourable moment, when the king, oppressed with wine, had retired from the table to his afternoon slumbers. His faithless spouse was anxious for his health and repose: the gates of the palace were shut, the arms removed, the attendants dismissed, and Rosamond, after lulling him to rest by her tender caresses, unbolted the chamber-door, and urged the reluctant conspirators to the instant execution of the deed. On the first alarm, the warrior started from his couch; his sword, which he attempted to draw, had been fastened to the scabbard by the hand of Rosamond; and a small stool, his only weapon, could not long protect him from the spears of the assassins. The daughter of Cunimund smiled in his fall; his body was buried under the staircase of the palace, and the grateful posterity of the Lombards revered the tomb and the memory of their victorious leader. CHAP. XLV.

The ambitious Rosamond aspired to reign in Her flight and death.

* The classical reader will recollect the wife and murder of Candaules, so agreeably told in the first book of Herodotus. The choice of Gyges, αἰρεῦται αὐτος τιθεῖναι, may serve as the excuse of Perdeus; and this soft insinuation of an odious idea has been imitated by the best writers of antiquity, (Grævius, ad Ciceron. Orat. pro Milone, c. 10).

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the name of her lover; the city and palace of Verona were awed by her power, and a faithful band of her native Gepidæ was prepared to applaud the revenge, and to second the wishes, of their sovereign. But the Lombard chiefs, who fled in the first moments of consternation and disorder, had resumed their courage and collected their powers; and the nation, instead of submitting to her reign, demanded with unanimous cries, that justice should be executed on the guilty spouse and the murderers of their king. She sought a refuge among the enemies of her country, and a criminal who deserved the abhorrence of mankind was protected by the selfish policy of the exarch. With her daughter, the heiress of the Lombard throne, her two lovers, her trusty Gepidæ, and the spoils of the palace of Verona, Rosamond descended the Adige and the Po, and was transported by a Greek vessel to the safe harbour of Ravenna. Longinus beheld with delight the charms and the treasures of the widow of Alboin: her situation and her past conduct might justify the most licentious proposals; and she readily listened to the passion of a minister, who, even in the decline of the empire, was respected as the equal of kings. The death of a jealous lover was an easy and grateful sacrifice, and as Helmichis issued from the bath, he received the deadly potion from the hand of his mistress. The taste of the liquor, its speedy operation, and his experience of the character of Rosamond, convinced him that he was poisoned: he pointed his dagger to her breast,

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compelled her to drain the remainder of the cup, and expired in a few minutes, with the consolation that she could not survive to enjoy the fruits of her wickedness. The daughter of Alboin and Rosamond, with the richest spoils of the Lombards, was embarked for Constantinople; the surprising strength of Peredeus amused and terrified the imperial court: his blindness and revenge exhibited an imperfect copy of the adventures of Sampson. By the free suffrage of the nation, in the assembly of Pavia, Clepho, one of their noblest chiefs, was elected as the successor of Alboin. Before the end of eighteen months, the throne was polluted by a second murder; Clepho was stabbed by the hand of a domestic; the regal office was suspended above ten years, during the minority of his son Autharis;[y] and Italy was divided and oppressed by a ducal aristocracy of thirty tyrants.

Clepho, king of the Lombards, A. D. 573. August.

When the nephew of Justinian ascended the throne, he proclaimed a new era of happiness and glory. The annals of the second Justin[z] are marked with disgrace abroad and misery at home. In the West the Roman empire was afflicted by the loss of Italy, the desolation of Africa, and the conquests of the Persians. In-

Weakness of the emperor Justinian.

[y] See the history of Paul, l. ii, c. 28-32. I have borrowed some interesting circumstances from the Liber Pontificalis of Agnellus, in Script. Rer. Ital. tom. ii, p. 124. Of all chronological guides, Muratori is the safest.

[z] The original authors for the reign of Justin the Younger, are Evagrius, Hist. Eccles. l. v, c. 1-12; Theophanes, in Chronograph. p. 204-210; Zonaras, tom. ii, l. xiv, p. 70-72; Cedrenus, in Compend. p. 388-392.

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justice prevailed both in the capital and the provinces; the rich trembled for their property, the poor for their safety, the ordinary magistrates were ignorant or venal, the occasional remedies appear to have been arbitrary and violent, and the complaints of the people could no longer be silenced by the splendid names of a legislator and a conqueror. The opinion which imputes to the prince all the calamities of his times, may be countenanced by the historian as a serious truth or a salutary prejudice. Yet a candid suspicion will arise, that the sentiments of Justin were pure and benevolent, and that he might have filled his station without reproach, if the faculties of his mind had not been impaired by disease, which deprived the emperor of the use of his feet, and confined him to the palace, a stranger to the complaints of the people and the vices of the government. The tardy knowledge of his own impotence determined him to lay down the weight of the diadem; and in the choice of a worthy substitute, he shewed some symptoms of a discerning and even magnanimous spirit. The only son of Justin and Sophia died in his infancy: their daughter Arabia was the wife of Baduarius [a], superintendant of the palace, and afterwards commander

[a] Dispositorque novus sacræ Baduarius aulæ.
Successor soceri mox factus Cura palati. Corippus.
Baduarius is enumerated among the descendants and allies of the house of Justinian. A family of noble Venetians (Casa Badoero) built churches and gave dukes to the republic as early as the ixth century; and if their descent be admitted, no kings in Europe can produce a pedigree so ancient and illustrious. Ducange, Fam. Byzantin. p. 99. Amelot de la Houssaye, Gouvernement de Venise, tom. ii, p. 555.

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of the Italian armies, who vainly aspired to confirm the rights of marriage by those of adoption. While the empire appeared an object of desire, Justin was accustomed to behold with jealousy and hatred his brothers and cousins, the rivals of his hopes; nor could he depend on the gratitude of those who would accept the purple as a restitution, rather than a gift. Of these competitors, one had been removed by exile, and afterwards by death; and the emperor himself had inflicted such cruel insults on another, that he must either dread his resentment or despise his patience. This domestic animosity was refined into a generous resolution of seeking a successor, not in his family, but in the republic: and the artful Sophia recommended Tiberius [b], his faithful captain of the guards, whose virtues and fortune the emperor might cherish as the fruit of his judicious choice. The ceremony of his elevation to the rank of Cæsar or Augustus, was performed in the portico of the palace, in the presence of the patriarch and the senate. Justin collected the remaining strength of his mind and body, but the popular belief that his speech was inspired by the Deity betrays a very humble opinion both of the man and of the times. [c]—"You behold," said the

Association of Tiberius, A. D 574, December.

[b] The praise bestowed on princes before their elevation, is the purest and most weighty. Corippus has celebrated Tiberius at the time of the accession of Justin, (l. i, 212–222). Yet even a captain of the guards might attract the flattery of an African exile.

[c] Evagrius (l. v, c. 13) has added the reproach to his ministers. He applies this speech to the ceremony when Tiberius was invested with the rank of Cæsar. The loose expression, rather than the positive error, of Theophanes, &c. has delayed it to his Augustan investiture immediately before the death of Justin.

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emperor, "the ensigns of supreme power. You "are about to receive them not from my hand, "but from the hand of God. Honour them, "and from them you will derive honour. Re- "spect the empress your mother; you are now "her son; before, you were her servant. De- "light not in blood, abstain from revenge, a- "void those actions by which I have incurred "the public hatred, and consult the experience "rather than the example of your predecessor. "As a man, I have sinned; as a sinner, even "in this life I have been severely punished: "but these servants (and he pointed to his mi- "nisters) who have abused my confidence, and "inflamed my passions, will appear with me "before the tribunal of Christ. I have been "dazzled by the splendour of the diadem: be "thou wise and modest; remember what you "have been, remember what you are. You see "around us your slaves and your children; "with the authority, assume the tenderness, of "a parent. Love your people like yourself; "cultivate the affections, maintain the disci- "pline, of the army: protect the fortunes of "the rich, relieve the necessities of the poor[d]." The assembly, in silence and in tears, applaud- ed the counsels, and sympathised with the re- pentance, of their prince: the patriarch re- hearsed the prayers of the church; Tiberius re-

[d] Theophylact Simocatta (l. iii, c. 11) declares that he shall give to posterity the speech of Justin as it was pronounced, without at- tempting to correct the imperfections of language or rhetoric. Perhaps the vain sophist would have been incapable of producing such sentiments.

ceived the diadem on his knees, and Justin, who in his abdication appeared most worthy to reign, addressed the new monarch in the following words.—"If you consent, I live; if you command, I die: may the God of heaven and earth infuse into your heart whatever I have neglected or forgotten." The four last years of the emperor Justin were passed in tranquil obscurity: his conscience was no longer tormented by the remembrance of those duties which he was incapable of discharging: and his choice was justified by the filial reverence and gratitude of Tiberius.

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Death of Justin II. A. D. 578. October 5.

Among the virtues of Tiberius,[c] his beauty (he was one of the tallest and most comely of the Romans) might introduce him to the favour of Sophia; and the widow of Justin was persuaded that she should preserve her station and influence under the reign of a second and more youthful husband. But if the ambitious candidate had been tempted to flatter and dissemble, it was no longer in his power to fulfil her expectations, or his own promise. The factions of the hippodrome demanded, with some impatience, the name of their new empress; both the people and Sophia were astonished by the proclamation of Anastasia, the secret, though lawful, wife of the emperor Tiberius. Whatever could alleviate the disappointment of Sophia,

Reign of Tiberius II. A. D. 578. Sept. 26. A. D. 582. Aug. 14.

[c] For the character and reign of Tiberius, see Evagrius, l. v, c. 13; Theophylact, l. iii, c. 12, &c.; Theophanes, in Chron. p. 210-213; Zonaras, tom. ii, l. xiv, p. 72; Cedrenus, p. 392; Paul Warnefrid, de Gestis Langobard. l. iii, c. 11, 12. The deacon of Forum Julii appears to have possessed some curious and authentic facts.

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imperial honours, a stately palace, a numerous household, was liberally bestowed by the piety of her adopted son; on solemn occasions he attended and consulted the widow of his benefactor: but her ambition disdained the vain semblance of royalty, and the respectful appellation of mother served to exasperate, rather than appease, the rage of an injured woman. While she accepted, and repaid with a courtly smile, the fair expressions of regard and confidence, a secret alliance was concluded between the dowager empress and her ancient enemies; and Justinian, the son of Germanus, was employed as the instrument of her revenge. The pride of the reigning house supported, with reluctance, the dominion of a stranger: the youth was deservedly popular; his name, after the death of Justin, had been mentioned by a tumultuous faction; and his own submissive offer of his head, with a treasure of sixty thousand pounds, might be interpreted as an evidence of guilt, or at least of fear. Justinian received a free pardon, and the command of the eastern army. The Persian monarch fled before his arms; and the acclamations which accompanied his triumph declared him worthy of the purple. His artful patroness had chosen the month of the vintage, while the emperor, in a rural solitude, was permitted to enjoy the pleasures of a subject. On the first intelligence of her designs he returned to Constantinople, and the conspiracy was suppressed by his presence and firmness. From the pomp and honours which she had abused, Sophia was reduced to a modest al-

lowance: Tiberius dismissed her train, intercepted her correspondence, and committed to a faithful guard the custody of her person. But the services of Justinian were not considered by that excellent prince as an aggravation of his offences; after a mild reproof, his treason and ingratitude were forgiven; and it was commonly believed, that the emperor entertained some thoughts of contracting a double alliance with the rival of his throne. The voice of an angel (such a fable was propagated) might reveal to the emperor, that he should always triumph over his domestic foes; but Tiberius derived a firmer assurance from the innocence and generosity of his own mind. CHAP. XLV.

His virtues.

With the odious name of Tiberius, he assumed the more popular appellation of Constantine, and imitated the purer virtues of the Antonines. After recording the vice or folly of so many Roman princes, it is pleasant to repose, for a moment, on a character conspicuous by the qualities of humanity, justice, temperance, and fortitude; to contemplate a sovereign affable in his palace, pious in the church, impartial on the seat of judgment, and victorious, at least by his generals, in the Persian war. The most glorious trophy of his victory, consisted in a multitude of captives whom Tiberius entertained, redeemed, and dismissed to their native homes with the charitable spirit of a Christian hero. The merit or misfortunes of his own subjects had a dearer claim to his beneficence, and he measured his bounty not so much by their expectations as by his own dignity. This

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maxim; however dangerous in a trustee of the public wealth, was balanced by a principle of humanity and justice, which taught him to abhor, as of the basest alloy, the gold that was extracted from the tears of the people. For their relief, as often as they had suffered by natural or hostile calamities, he was impatient to remit the arrears of the past, or the demands of future taxes: he sternly rejected the servile offerings of his ministers, which were compensated by tenfold oppression; and the wise and equitable laws of Tiberius excited the praise and regret of succeeding times. Constantinople believed that the emperor had discovered a treasure: but his genuine treasure consisted in the practice of liberal economy, and the contempt of all vain and superfluous expence. The Romans of the East would have been happy, if the best gift of heaven, a patriot king, had been confirmed as a proper and permanent blessing. But in less than four years after the death of Justin, his worthy successor sunk into a mortal disease, which left him only sufficient time to restore the diadem, according to the tenure by which he held it, to the most deserving of his fellow-citizens. He selected Maurice from the crowd, a judgment more precious than the purple itself: the patriarch and senate were summoned to the bed of the dying prince; he bestowed his daughter and the empire; and his last advice was solemnly delivered by the voice of the quæstor. Tiberius expressed his hope, that the virtues of his son and successor would erect the noblest mauso-

leum to his memory. His memory was embalmed by the public affliction; but the most sincere grief evaporates in the tumult of a new reign, and the eyes and acclamations of mankind were speedily directed to the rising sun. CHAP. XLV.

The reign of Maurice, A. D. 582. Aug. 13—A. D. 602, Nov. 27.

The emperor Maurice derived his origin from ancient Rome,[f] but his immediate parents were settled at Arabissus in Cappadocia, and their singular felicity preserved them alive to behold and partake the fortune of their *august* son. The youth of Maurice was spent in the profession of arms; Tiberius promoted him to the command of a new and favourite legion of twelve thousand confederates; his valour and conduct were signalized in the Persian war; and he returned to Constantinople to accept, as his just reward, the inheritance of the empire. Maurice ascended the throne at the mature age of forty-three years; and he reigned above twenty years over the East and over himself;[g] expelling from his mind the wild democracy of passions, and establishing (according to the quaint expression of Evagrius) a perfect aristocracy of reason and virtue. Some suspicion will degrade the testimony of a subject, though he protests that his secret praise

[f] It is therefore singular enough that Paul (l. iii, c. 15) should distinguish him as the first Greek emperor—primus ex Græcorum genere in imperio constitutus. His immediate predecessors had indeed been born in the Latin provinces of Europe; and a various reading, in Græcorum imperio, would apply the expression to the empire rather than the prince.

[g] Consult, for the character and reign of Maurice, the fifth and sixth books of Evagrius, particularly l. vi, c. 1; the eight books of his prolix and florid history by Theophylact Simocatta; Theophanes, p. 213, &c.; Zonaras, tom. ii, l. xiv, p. 73; Cedrenus, p. 394.

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should never reach the ears of his sovereign,[h] and some failings seem to place the character of Maurice below the purer merit of his predecessor. His cold and reserved demeanour might be imputed to arrogance; his justice was not always exempt from cruelty, nor his clemency from weakness; and his rigid economy too often exposed him to the reproach of avarice. But the rational wishes of an absolute monarch must tend to the happiness of his people; Maurice was endowed with sense and courage to promote that happiness, and his administration was directed by the principles and example of Tiberius. The pusillanimity of the Greeks had introduced so complete a separation between the offices of king and of general, that a private soldier who had deserved and obtained the purple, seldom or never appeared at the head of his armies. Yet the emperor Maurice enjoyed the glory of restoring the Persian monarch to his throne: his lieutenants waged a doubtful war against the Avars of the Danube, and he cast an eye of pity, of ineffectual pity, on the abject and distressful state of his Italian provinces.

Distress of Italy.

From Italy the emperors were incessantly tormented by tales of misery and demands of succour, which extorted the humiliating confession of their own weakness. The expiring

h Αυτοκρατωρ οντως γενομενος την μεν σωφροσυνην των παθων εκ της ακριβους εξασκησεως ηρετισατο ψυχης· αριστοκρατειαν δε εν τοις ιδιοις λογισμοις κατεστησατο. Evagrius composed his history in the twenty-first year of Maurice; and he had been so wisely indiscreet, that the emperor knew and rewarded his favourable opinion, (l. vi, c. 24).

dignity of Rome was only marked by the freedom and energy of her complaints. "If you "are incapable," she said, "of delivering us "from the sword of the Lombards, save us at "least from the calamity of famine." Tiberius forgave the reproach, and relieved the distress: a supply of corn was transported from Egypt to the Tiber; and the Roman people, invoking the name, not of Camillus, but of St Peter, repulsed the barbarians from their walls. But the relief was accidental, the danger was perpetual and pressing: and the clergy and senate, collecting the remains of their ancient opulence, a sum of three thousand pounds of gold, dispatched the patrician Pamphronius to lay their gifts and their complaints at the foot of the Byzantine throne. The attention of the court, and the forces of the East, were diverted by the Persian war; but the justice of Tiberius applied the subsidy to the defence of the city: and he dismissed the patrician with his best advice, either to bribe the Lombard chiefs, or to purchase the aid of the kings of France. Notwithstanding this weak invention, Italy was still afflicted, Rome was again besieged, and the suburb of Classe, only three miles from Ravenna, was pillaged and occupied by the troops of a simple duke of Spoleto. Maurice gave audience to a second deputation of priests and senators; the duties and the menaces of religion were forcibly urged in the letters of the Roman pontiff; and his nuncio, the deacon Gregory, was alike qualified to solicit the powers either of heaven or

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of the earth. The emperor adopted, with stronger effect, the measures of his predecessor; some formidable chiefs were persuaded to embrace the friendship of the Romans; and one of them, a mild and faithful barbarian, lived and died in the service of the exarch: the passes of the Alps were delivered to the Franks; and the pope encouraged them to violate, without scruple, their oaths and engagements to the misbelievers. Childebert, the great-grandson of Clovis, was persuaded to invade Italy by the payment of fifty thousand pieces; but as he had viewed with delight some Byzantine coin of the weight of one pound of gold, the king of Austrasia might stipulate, that the gift should be rendered more worthy of his acceptance, by a proper mixture of these respectable medals. The dukes of the Lombards had provoked by frequent inroads their powerful neighbours of Gaul. As soon as they were apprehensive of a just retaliation, they renounced their feeble and disorderly independence: the advantages of regal government, union, secrecy, and vigour, were unanimously confessed; and Autharis, the son of Clepho, had already attained the strength and reputation of a warrior. Under the standard of their new king, the conquerors of Italy withstood three successive invasions, one of which was led by Childebert himself, the last of the Merovingian race who descended from the Alps. The first expedition was defeated by the jealous animosity of the Franks and Alemanni. In the second they were vanquish-

Autharis, king of the Lombards, A. D. 584—590.

ed in a bloody battle, with more loss and dishonour than they had sustained since the foundation of their monarchy. Impatient for revenge, they returned a third time with accumulated force, and Autharis yielded to the fury of the torrent. The troops and treasures of the Lombards were distributed in the walled towns between the Alps and the Apennine. A nation, less sensible of danger, than of fatigue and delay, soon murmured against the folly of their twenty commanders; and the hot vapours of an Italian sun infected with disease those tramontane bodies which had already suffered the vicissitudes of intemperance and famine. The powers that were inadequate to the conquest, were more than sufficient for the desolation of the country; nor could the trembling natives distinguish between their enemies and their deliverers. If the junction of the Merovingian and imperial forces had been effected in the neighbourhood of Milan, perhaps they might have subverted the throne of the Lombards; but the Franks expected six days the signal of a flaming village, and the arms of the Greeks were idly employed in the reduction of Modena and Parma, which were torn from them after the retreat of their transalpine allies. The victorious Autharis asserted his claim to the dominion of Italy. At the foot of the Rhætian Alps, he subdued the resistance, and rifled the hidden treasures of a sequestered island in the lake of Comum. At the extreme point of Calabria, he touched with his spear a column on

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the sea-shore of Rhegium,[i] proclaiming that ancient land-mark to stand the immoveable boundary of his kingdom.[k]

The exarchate of Ravenna.

During a period of two hundred years, Italy was unequally divided between the kingdom of the Lombards and the exarchate of Ravenna. The offices and professions, which the jealousy of Constantine had separated, were united by the indulgence of Justinian; and eighteen successive exarchs were invested, in the decline of the empire, with the full remains of civil, of military, and even of ecclesiastical power. Their immediate jurisdiction, which was afterwards consecrated as the patrimony of St Peter, extended over the modern Romagna, the marshes or valleys of Ferrara and Commachio,[l] five maritime cities from Rimini to Ancona, and a second, inland Pentapolis, between the Adriatic coast and the hills of the Apennine. Three subordinate provinces, of Rome, of Venice, and

[i] The Columna Rhegina, in the narrowest part of the Faro of Messina, one hundred stadia from Rhegium itself, is frequently mentioned in ancient geography, Cluver. Ital. Antiq. tom. ii, p. 1295. Lucas Holstein. Annotat. ad Cluver. p. 301. Wesseling, Itinerar. p. 106.

[k] The Greek historians afford some faint hints of the wars of Italy, (Menander, in Excerpt. Legat. p. 124, 126. Theophylact, l. iii, c. 4). The Latins are more satisfactory; and especially Paul Warnefrid, (l. iii, 13-34), who had read the more antient histories of Secundus and Gregory of Tours. Baronius produces some letters of the popes, &c.; and the times are measured by the accurate scale of Pagi and Muratori.

[l] The papal advocates, Zacagni and Fontanini, might justly claim the valley or morass of Commachio as a part of the exarchate. But the ambition of including Modena, Reggio, Parma, and Placentia, has darkened a geographical question somewhat doubtful and obscure. Even Muratori, as the servant of the house of Este, is not free from partiality and prejudice.

of Naples, which were divided by hostile lands from the palace of Ravenna, acknowledged, both in peace and war, the supremacy of the exarch. The dutchy of Rome appears to have included the Tuscan, Sabine, and Latian conquests, of the first four hundred years of the city, and the limits may be distinctly traced along the coast, from Civita Vecchia, to Terracina, and with the course of the Tiber from Ameria and Narni to the port of Ostia. The numerous islands from Grado to Chiozza, composed the infant dominion of Venice; but the more accessible towns on the continent were overthrown by the Lombards, who beheld with impotent fury a new capital rising from the waves. The power of the dukes of Naples was circumscribed by the bay and the adjacent isles, by the hostile territory of Capua, and by the Roman colony of Amalphi,[m] whose industrious citizens, by the invention of the mariner's compass, have unveiled the face of the globe. The three islands of Sardinia, Corsica, and Sicily, still adhered to the empire; and the acquisition of the farther Calabria removed the land-mark of Autharis from the shore of Rhegium to the isthmus of Consentia. In Sardinia, the savage mountaineers preserved the liberty and religion of their ancestors; but the husbandmen of Sicily were chained to their rich and cultivated soil. Rome was oppressed by the iron sceptre of the exarchs, and a Greek, perhaps an eunuch, insulted with impunity the ruins of the Capitol.

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[m] See Brencmann, Dissert. 1ma de Republica Amalphitana, p. 1-42, ad calcem Hist. Pandect. Florent.

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But Naples soon acquired the privilege of electing her own dukes;[n] the independence of Amalphi was the fruit of commerce: and the voluntary attachment of Venice was finally ennobled by an equal alliance with the eastern empire. On the map of Italy, the measure of the exarchate occupies a very inadequate space; but it included an ample proportion of wealth, industry, and population. The most faithful and valuable subjects escaped from the barbarian yoke; and the banners of Pavia and Verona, of Milan and Padua, were displayed in their respective quarters by the new inhabitants of Ravenna. The remainder of Italy was possessed by the Lombards; and from Pavia, the royal seat, their kingdom was extended to the east, the north, and the west, as far as the confines of the Avars, the Bavarians, and the Franks of Austrasia and Burgundy. In the language of modern geography, it is now represented by the Terra Firma of the Venetian republic, Tyrol, the Milanese, Piemont, the coast of Genoa, Mantua, Parma, and Modena, the grand dutchy of Tuscany, and a large portion of the ecclesiastical state from Perugia to the Adriatic. The Dukes, and at length the Princes, of Beneventum survived the monarchy, and propagated the name of the Lombards. From Capua to Tarentum, they reigned near five hundred years over the greatest part of the present kingdom of Naples.[o]

The kingdom of the Lombards.

[n] Gregor. Magn. l. iii, epist. 23, 25, 26, 27.

[o] I have described the state of Italy from the excellent Dissertation of Beretti. Giannone (Istoria Civile, tom. i, p. 374-397) has

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Language and manners of the Lombards.

In comparing the proportion of the victorious and the vanquished people, the change of language will afford the most probable inference. According to this standard it will appear, that the Lombards of Italy, and the Visigoths of Spain, were less numerous than the Franks or Burgundians; and the conquerors of Gaul must yield, in their turn, to the multitude of Saxons and Angles who almost eradicated the idioms of Britain. The modern Italian has been insensibly formed by the mixture of nations; the awkwardness of the barbarians in the nice management of declensions and conjugations, reduced them to the use of articles and auxiliary verbs; and many new ideas have been expressed by Teutonic appellations. Yet the principal stock of technical and familiar words is found to be of Latin derivation;[p] and if we were sufficiently conversant with the obsolete, the rustic, and the municipal dialects of ancient Italy, we should trace the origin of many terms which might, perhaps, be rejected by the classic purity of Rome. A numerous army constitutes but a small nation, and the powers of the Lombards were soon diminished by the retreat of twenty thousand Saxons, who scorned a de-

followed the learned Camillo Pelegrini in the geography of the kingdom of Naples. After the loss of the true Calabria, the vanity of the Greeks substituted that name instead of the more ignoble appellation of Bruttium; and the change appears to have taken place before the time of Charlemagne, (Eginard, p. 75).

[p] Maffei, (Verona Illustrata, part i, p. 310-321), and Muratori, (Antichità Italiane, tom. ii; Dissertazione xxxii, xxxiii, p. 71-365), have asserted the native claims of the Italian idiom: the former with enthusiasm, the latter with discretion; both with learning, ingenuity, and truth.

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pendant situation, and returned, after many bold and perilous adventures, to their native country.[q] The camp of Alboin was of formidable extent, but the extent of a camp would be easily circumscribed within the limits of a city; and its martial inhabitants must be thinly scattered over the face of a large country. When Alboin descended from the Alps, he invested his nephew, the first duke of Friuli, with the command of the province and the people; but the prudent Gisulf would have declined the dangerous office, unless he had been permitted to choose, among the nobles of the Lombards, a sufficient number of families[r] to form a perpetual colony of soldiers and subjects. In the progress of conquest, the same option could not be granted to the dukes of Brescia or Bergamo, of Pavia or Turin, of Spoleto or Beneventum; but each of these, and each of their colleagues, settled in his appointed district with a band of followers who resorted to his standard in war and his tribunal in peace. Their attachment was free and honourable: resigning the gifts and benefits which they had accepted, they might emigrate with their families into the jurisdiction of another duke; but their absence from the kingdom was punished with death, as a crime of military desertion.[s] The posterity of the first conquerors struck a deeper root in-

[q] Paul, de Gest. Langobard. l. iii, c. 5, 6, 7.

[r] Paul, l. ii, c. 9. He calls these families or generations by the Teutonic name of Farus, which is likewise used in the Lombard laws. The humble deacon was not insensible of the nobility of his own race. See l. iv, c. 30.

[s] Compare N°. 3 and 177 of the laws of Rotharis.

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to the soil, which, by every motive of interest and honour, they were bound to defend. A Lombard was born the soldier of his king and his duke; and the civil assemblies of the nation displayed the banners, and assumed the appellation, of a regular army. Of this army, the pay and the rewards were drawn from the conquered provinces; and the distribution, which was not effected till after the death of Alboin, is disgraced by the foul marks of injustice and rapine. Many of the most wealthy Italians were slain or banished; the remainder were divided among the strangers, and a tributary obligation was imposed, (under the name of hospitality), of paying to the Lombards a third part of the fruits of the earth. Within less than seventy years, this artificial system was abolished by a more simple and solid tenure.[1] Either the Roman landlord was expelled by his strong and insolent guest; or the annual payment, a third of the produce, was exchanged by a more equitable transaction for an adequate proportion of landed property. Under these foreign masters, the business of agriculture, in the cultivation of corn, vines, and olives, was exercised with degenerate skill and industry by the labour of the slaves and natives. But the occupations of a pastoral life were more pleasing to the idleness of the barbarians. In the rich meadows of Venetia, they restored and improved the breed

[1] Paul. l. ii, c. 31, 32; l. iii, c. 16. The laws of Rotharis, promulgated A. D. 643, do not contain the smallest vestige of this payment of thirds; but they preserve many curious circumstances of the state of Italy and the manners of the Lombards.

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of horses for which that province had once been illustrious;[u] and the Italians beheld with astonishment a foreign race of oxen or buffaloes.[x] The depopulation of Lombardy, and the increase of forests, afforded an ample range for the pleasures of the chace.[y] That marvellous art which teaches the birds of the air to acknowledge the voice, and execute the commands, of their master, had been unknown to the ingenuity of the Greeks and Romans.[z] Scandinavia and Scythia produce the boldest and most tractable falcons;[a] they were tamed and educated

[u] The studs of Dionysius of Syracuse, and his frequent victories in the Olympic games, had diffused among the Greeks the fame of the Venetian horses; but the breed was extinct in the time of Strabo, (l. v, p. 325). Gisulf obtained from his uncle generosarum equarum greges. Paul, l. ii, c. 9. The Lombards afterwards introduced caballi sylvatici—wild horses. Paul, l. iv, c. 11

[x] Tunc (A. D. 596) primum, bubali in Italiam delati Italiæ populis miracula fuere, (Paul Warnefrid, l. iv. c. 11). The buffaloes, whose native climate appears to be Africa and India, are unknown to Europe, except in Italy, where they are numerous and useful. The ancients were ignorant of these animals, unless Aristotle (Hist. Animal. l. ix, c. 1, p. 58, Paris 1783) has described them as the wild oxen of Arachosia. See Buffon. Hist. Naturelle, tom. xi, and Supplement, tom. vi; Hist. Generale des Voyages, tom. i, p. 7, 481; ii, 105; iii, 291; iv, 234, 461; v, 193; vi, 491; viii, 400; x, 666; Pennant's Quadrupedes, p. 24; Dictionaire d'Hist. Naturelle, par Valmont de Romare, tom. ii, p. 74. Yet I must not conceal the suspicion that Paul, by a vulgar error, may have applied the name of bubalus to the aurochs, or wild bull, of ancient Germany.

[y] Consult the xxist Dissertation of Muratori.

[z] Their ignorance is proved by the silence even of those who professedly treat of the arts of hunting and the history of animals. Aristotle, (Hist. Animal. l. ix, c. 36, tom. i, p. 886, and the notes of his last editor, M. Camus, tom. ii, p. 311); Pliny, (Hist. Natur. l. x, c. 10); Ælian, (de Natur. Animal. l. ii, c. 42), and perhaps Homer, (Odyss. xxii, 302-306), describe with astonishment a tacit league and common chace between the hawks and the Thracian fowlers.

[a] Particularly the gerfaut or gyrfalcon, of the size of a small eagle.

by the roving inhabitants always on horseback and in the field. This favourite amusement of our ancestors was introduced by the barbarians into the Roman provinces; and the laws of Italy esteem the sword and the hawk as of equal dignity and importance in the hands of a noble Lombard.[b] CHAP. XLV.

Dress and marriage.

So rapid was the influence of climate and example, that the Lombards of the fourth generation surveyed with curiosity and affright the portraits of their savage forefathers.[c] Their heads were shaven behind, but the shaggy locks hung over their eyes and mouth, and a long beard, represented the name and character of the nation. Their dress consisted of loose linen garments, after the fashion of the Anglo-Saxons, which were decorated, in their opinion, with broad stripes of variegated colours. The legs and feet were clothed in long hose, and open sandals; and even in the security of peace a trusty sword was constantly girt to their side.

See the animated description of M. de Buffon, Hist. Naturelle, tom. xvi, p. 239, &c.

[b] Script. Rerum Italicarum, tom. i, part ii, p. 129. This is the xxiith law of the emperor Lewis the Pious. His father Charlemagne had falconers in his household as well as huntsmen. (Mémoires sur l'Ancienne Chevalerie, par M. de St Palaye, tom. iii, p. 175). I observe in the laws of Rotharis a more early mention of the art of hawking, (N°. 322); and in Gaul, in the vth century, it is celebrated by Sidonius Apollinaris among the talents of Avitus, (202-207).

[c] The epitaph of Droctulf (Paul, l. iii, c. 19) may be applied to many of his countrymen.—

Terribilis visu facies, sed corda benignus
Longaque robusto pectore barbara fuit.

The portraits of the old Lombards might still be seen in the palace of Monsa, twelve miles from Milan, which had been founded or restored by Queen Theudelinda, (l. iv, 22, 23). See Muratori, tom. i, dissertaz. xxiii, p. 300.

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Yet this strange apparel, and horrid aspect, often concealed a gentle and generous disposition; and as soon as the rage of battle had subsided, the captives and subjects were sometimes surprised by the humanity of the victor. The vices of the Lombards were the effect of passion, of ignorance, of intoxication; their virtues are the more laudable, as they were not affected by the hypocrisy of social manners, nor imposed by the rigid constraint of laws and education. I should not be apprehensive of deviating from my subject, if it were in my power to delineate the private life of the conquerors of Italy: and I shall relate with pleasure the adventurous gallantry of Autharis, which breathes the true spirit of chivalry and romance.[d] After the loss of his promised bride, a Merovingian princess, he sought in marriage the daughter of the king of Bavaria; and Garibald accepted the alliance of the Italian monarch. Impatient of the slow progress of negotiation, the ardent lover escaped from his palace, and visited the court of Bavaria in the train of his own embassy. At the public audience, the unknown stranger advanced to the throne, and informed Garibald, that the ambassador was indeed the minister of state, but that he alone was the friend of Autharis, who had trusted him with the delicate commission of making a faithful report of the charms of his spouse. Theudelinda was summoned to undergo this important

[d] The story of Autharis and Theudelinda is related by Paul, l. iii, c. 29, 34; and any fragment of Bavarian antiquity excites the indefatigable diligence of the Count de Pinet. Hist. des Peuples de l'Europe, tom. xi, p. 595-635; tom. xii, p. 1 63.

examination; and after a pause of silent rapture, he hailed her as the queen of Italy, and humbly requested, that, according to the custom of the nation, she would present a cup of wine to the first of her new subjects. By the command of her father, she obeyed: Autharis received the cup in his turn, and, in restoring it to the princess, he secretly touched her hand, and drew his own finger over his face and lips. In the evening, Theudelinda imparted to her nurse the indiscreet familiarity of the stranger, and was comforted by the assurance, that such boldness could proceed only from the king her husband, who, by his beauty and courage, appeared worthy of her love. The ambassadors were dismissed: no sooner did they reach the confines of Italy, than Autharis, raising himself on his horse, darted his battle-axe against a tree with incomparable strength and dexterity. "Such," said he to the astonished Bavarians, "such are the strokes of the king of the Lombards." On the approach of a French army, Garibald and his daughter took refuge in the dominions of their ally; and the marriage was consummated in the palace of Verona. At the end of one year, it was dissolved by the death of Autharis: but the virtues of Theudelinda* had endeared her to the nation, and she was permitted to bestow, with her hand, the sceptre of the Italian kingdom.

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* Giannone (Istoria Civile de Napoli, tom. i, p. 263) has justly censured the impertinence of Boccaccio, (Gio. iii; Novel. 2), who, without right, or truth, or pretence, has given the pious Queen Theudelinda to the arms of a muleteer.

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Govern-ment.

From this fact, as well as from similar events,[f] it is certain that the Lombards possessed freedom to elect their sovereign, and sense to decline the frequent use of that dangerous privilege. The public revenue arose from the produce of land, and the profits of justice. When the independent dukes agreed that Autharis should ascend the throne of his father, they endowed the regal office with a fair moiety of their respective domains. The proudest nobles aspired to the honours of servitude near the person of their prince: he rewarded the fidelity of his vassals by the precarious gift of pensions and *benefices;* and atoned for the injuries of war, by the rich foundation of monasteries and churches. In peace a judge, a leader in war, he never usurped the powers of a sole and absolute legislator. The king of Italy convened the national assemblies in the palace, or more probably in the fields of Pavia: his great council was composed of the persons most eminent by their birth and dignities; but the validity, as well as the execution, of their decrees, depended on the approbation of the *faithful* people, the *fortunate* army of the Lombards. About fourscore years after the conquest of Italy, their traditional customs were transcribed in Teutonic Latin,[g] and ratified by the consent

[f] Paul, l. iii, c. 16. The first dissertations of Muratori, and the first volume of Giannone's history, may be consulted for the state of the kingdom of Italy.

[g] The most accurate edition of the laws of the Lombards is to be found in the Scriptores Rerum Italicarum, tom. i, part ii, p. 1-181, collated from the most ancient MSS, and illustrated by the critical notes of Muratori.

of the prince and people: some new regulations were introduced, more suitable to their present condition; the example of Rotharis was imitated by the wisest of his successors, and the laws of the Lombards have been esteemed the least imperfect of the barbaric codes.[h] Secure by their courage in the possession of liberty, these rude and hasty legislators were incapable of balancing the powers of the constitution, or of discussing the nice theory of political government. Such crimes as threatened the life of the sovereign, or the safety of the state, were adjudged worthy of death; but their attention was principally confined to the defence of the person and property of the subject. According to the strange jurisprudence of the times, the guilt of blood might be redeemed by a fine; yet the high price of nine hundred pieces of gold declares a just sense of the value of a simple citizen. Less atrocious injuries, a wound, a fracture, a blow, an opprobrious word, were measured with scrupulous and almost ridiculous diligence; and the prudence of the legislator encouraged the ignoble practice of bartering honour and revenge for a pecuniary compensation. The ignorance of the Lombards, in the state of paganism or Christianity, gave implicit credit to the malice and mischief of witchcraft; but the judges of the seventeenth century might have been instructed and confounded by the wisdom of Rotharis, who derides the

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Laws, A. D. 613. &c.

[h] Montesquieu, Esprit des Loix, l. xxviii, c. 1. Les loix des Bourguignons sont assez judicieuses; celles de Rotharis et de autres princes Lombards le sont encore plus.

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absurd superstition, and protects the wretched victims, of popular or judicial cruelty.[i] The same spirit of a legislator, superior to his age and country, may be ascribed to Luitprand, who condemns, while he tolerates, the impious and inveterate abuse of duels,[k] observing from his own experience, that the juster cause had often been oppressed by successful violence. Whatever merit may be discovered in the laws of the Lombards, they are the genuine fruit of the reason of the barbarians, who never admitted the bishops of Italy to a seat in their legislative councils. But the succession of their kings is marked with virtue and ability; the troubled series of their annals is adorned with fair intervals of peace, order, and domestic happiness; and the Italians enjoyed a milder and more equitable government, than any of the other kingdoms which had been founded on the ruins of the western empire.[l]

Misery of Rome.

Amidst the arms of the Lombards, and under the despotism of the Greeks, we again in-

[i] See Leges Rotharis, N°. 379, p. 47. Striga is used as the name of a witch. It is of the purest classic origin, (Horat. epod. v, 20; Petron. c. 134; and, from the words of Petronius, (quæ striges comederunt nervos tuos?), it may be inferred that the prejudice was of Italian rather than barbaric extraction.

[k] Quia incerte sumus de judicio Dei, et multos audivimus per pugnam injuste causam suam causam perdere. Sed propter constitutionem, cui contra nostram Lamgobardorum legem in primo vetare nolumus. See p. 71, N°. 6, of the Laws of Luitprand, promulgated A. D. 721.

[l] See the history of Paul Warnefrid; particularly l. iii, c. 16. Muratori rejects the panegyric, which appears to contradict the invectives of Pope Gregory the Great; but Muratori (Annali d'Italia, tom. v, p. 217) presumes to insinuate that the saint may have magnified the faults of Arians and enemies.

quire into the fate of Rome,[m] which had reached, about the close of the sixth century, the lowest period of her depression. By the removal of the seat of empire, and the successive loss of the provinces, the sources of public and private opulence were exhausted; the lofty tree, under whose shade the nations of the earth had reposed, was deprived of its leaves and branches, and the sapless trunk was left to wither on the ground. The ministers of command, and the messengers of victory, no longer met on the Appian or Flaminian way; and the hostile approach of the Lombards was often felt and continually feared. The inhabitants of a potent and peaceful capital, who visit without an anxious thought the garden of the adjacent country, will faintly picture in their fancy the distress of the Romans; they shut or opened their gates with a trembling hand, beheld from the walls the flames of their houses, and heard the lamentations of their brethren, who were coupled together like dogs, and dragged away into distant slavery beyond the sea and the mountains. Such incessant alarms must annihilate the pleasures and interrupt the labours of a rural life; and the Campagna of Rome was speedily reduced to the state of a dreary wilderness, in which the land is barren, the waters are impure, and the air is infectious. Curiosity and ambition no longer attracted the nations to the capital of the

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[m] The passages of the homilies of Gregory, which represent the miserable state of the city and country, are transcribed in the Annals of Baronius, A. D. 590, N°. 10; A. D. 595, N°. 9, &c. &c.

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world: but if chance or necessity directed the steps of a wandering stranger, he contemplated with horror the vacancy and solitude of the city, and might be tempted to ask, Where is the senate, and where are the people? In a season of excessive rains, the Tiber swelled above its banks, and rushed with irresistible violence into the valleys of the seven hills. A pestilential disease arose from the stagnation of the deluge, and so rapid was the contagion, that fourscore persons expired in an hour, in the midst of a solemn procession, which implored the mercy of heaven.[n] A society, in which marriage is encouraged and industry prevails, soon repairs the accidental losses of pestilence and war; but as the far greater part of the Romans was condemned to hopeless indigence and celibacy, the depopulation was constant and visible, and the gloomy enthusiasts might expect the approaching failure of the human race.[o] Yet the number of citizens still exceeded the measure of subsistence: their precarious food was supplied from the harvests of Sicily or Egypt; and the frequent repetition of famine betrays the inattention of the emperor to a distant province. The edifices of Rome were exposed to the same ruin and decay; the mouldering fabrics were

[n] The inundation and plague were reported by a deacon, whom his bishop, Gregory of Tours, had dispatched to Rome for some relics. The ingenious messenger embellished his tale and the river with a great dragon and a train of little serpents. (Greg. Turon. l. x, c. 1.

[o] Gregory of Rome (Dialog. l. ii, c. 15.) relates a memorable prediction of St Benedict. Roma a Gentilibus non exterminabitur sed in se pestilentiis, cornu ejus turbabitur, tonitruis terrarum motu in semetipsa marcescet. Such a prophecy melts into true history, and becomes the evidence of the fact after which it was invented.

easily overthrown by inundations, tempests, and earthquakes, and the monks, who had occupied the most advantageous stations, exulted in their base triumph over the ruins of antiquity.[p] It is commonly believed, that Pope Gregory I. attacked the temples and mutilated the statues of the city; that by the command of the barbarian, the Palatine library was reduced to ashes; and that the history of Livy was the peculiar mark of his absurd and mischievous fanaticism. The writings of Gregory himself reveal his implacable aversion to the monuments of classic genius: and he points his severest censure against the profane learning of a bishop, who taught the art of grammar, studied the Latin poets, and pronounced with the same voice the praises of Jupiter and those of Christ. But the evidence of his destructive rage is doubtful and recent; the temple of peace, or the theatre of Marcellus, have been demolished by the slow operation of ages, and a formal proscription would have multiplied the copies of Virgil and Livy in the countries which were not subject to the ecclesiastical dictator.[q]

The tombs and relics of the apostles.

Like Thebes, or Babylon, or Carthage, the name of Rome might have been erased from the

[p] Quin in uno se ore cum Jovis laudibus, Christi laudes non capiunt, et quem grave nefandumque est episcopis emere quod nec laico religioso conveniat, ipse considera, (l. ix, ep. 4). The writings of Gregory himself attest his innocence of any classic taste or literature.

[q] Bayle, (Dictionnaire Critique, tom. ii, p. 593, 590, in a very good article of Gregoire I., has quoted for the buildings and statues, Platina in Gregorio I.; for the Palatine library, John of Salisbury, de Nugis Curialium, l. ii, c. 26); and for Livy, Antoninus of Florence; the oldest of the three lived in the xvth century.

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earth, if the city had not been animated by a vital principle, which again restored her to honour and dominion. A vague tradition was embraced, that two Jewish teachers, a tent-maker and a fisherman, had formerly been executed in the circus of Nero, and at the end of five hundred years their genuine or fictitious relics were adored as the Palladium of Christian Rome. The pilgrims of the East and West resorted to the holy threshold; but the shrines of the apostles were guarded by miracles and invisible terrors; and it was not without fear that the pious catholic approached the object of his worship. It was fatal to touch, it was dangerous to behold, the bodies of the saints; and those who, from the purest motives, presumed to disturb the repose of the sanctuary, were afflicted by visions, or punished with sudden death. The unreasonable request of an empress, who wished to deprive the Romans of their sacred treasure, the head of St Paul, was rejected with the deepest abhorrence; and the pope asserted, most probably with truth, that a linen which had been sanctified in the neighbourhood of his body, or the filings of his chain, which it was sometimes easy and sometimes impossible to obtain, possessed an equal degree of miraculous virtue [1]. But the

[1] Gregor. l. iii, epist. 24, indict. 12, &c. From the epistles of Gregory, and the viiith volume of the Annals of Baronius, the pious reader may collect the particles of holy iron which were inserted in keys or crosses of gold, and distributed in Britain, Gaul, Spain, Africa, Constantinople, and Egypt. The pontifical smith who handled the file must have understood the miracles which it was in his own power to operate or withhold; a circumstance which abates the superstition of Gregory at the expence of his veracity.

power as well as virtue of the apostles resided with living energy in the breasts of their successors; and the chair of St Peter was filled under the reign of Maurice by the first and greatest of the name of Gregory.[s] His grandfather Felix had himself been pope, and as the bishops were already bound by the law of celibacy, his consecration must have been preceded by the death of his wife. The parents of Gregory, Sylvia and Gordian, were the noblest of the senate, and the most pious of the church of Rome: his female relations were numbered among the saints and virgins; and his own figure with those of his father and mother were represented near three hundred years in a family portrait,[t] which he offered to the monastery of St Andrew. The design and colouring of this picture afford an honourable testimony, that the art of painting was cultivated by the Italians of the sixth century; but the

Birth and profession of Gregory the Roman.

[s] Besides the epistles of Gregory himself, which are methodised by Dupin, (Bibliotheque Eccles. tom. v, p. 103-126), we have three lives of the pope; the two first written in the viiith and ixth centuries, (de Triplici Vita St. Greg. Preface to the vith volume of the Benedictine edition), by the deacons Paul (p. 1-18) and John (p. 19-188), and containing much original, though doubtful evidence; the third, a long and laboured compilation by the Benedictine editors, p. 199-305). The Annals of Baronius are a copious but partial history. His papal prejudices are tempered by the good sense of Fleury, (Hist. Eccles. tom. viii), and his chronology has been rectified by the criticism of Pagi and Muratori.

[t] John the deacon has described them like an eye-witness, (l. iv, c. 83, 84); and his description is illustrated by Angelo Rocca, a Roman antiquary, (St. Greg. Opera, tom. iv, p. 312-326), who observes, that some Mosaics of the popes of the viiith century are still preserved in the old churches of Rome, (p. 321-323). The same walls which represented Gregory's family, are now decorated with the martyrdom of St Andrew, the noble contest of Dominichino and Guido.

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most abject ideas must be entertained of their taste and learning, since the epistles of Gregory, his sermons, and his dialogues, are the work of a man who was second in erudition to none of his contemporaries: [u] his birth and abilities had raised him to the office of præfect of the city, and he enjoyed the merit of renouncing the pomp and vanities of this world. His ample patrimony was dedicated to the foundation of seven monasteries, [x] one in Rome, [y] and six in Sicily: and it was the wish of Gregory that he might be unknown in this life, and glorious only in the next. Yet his devotion, and it might be sincere, pursued the path which would have been chosen by a crafty and ambitious statesman. The talents of Gregory, and the splendour which accompanied his retreat, rendered him dear and useful to the church; and implicit obedience has been always inculcated as the first duty of a monk. As soon as he

[u] Disciplinis vero liberalibus, hoc est grammatica, rhetorica, dialectica, ita a puero est institutus, ut quamvis eo tempore florerent adhuc Romæ studia literarum, tamen nulli in urbe ipsa secundus putaretur. Paul. Diacon. in Vit. S. Gregor. c. 2.

[x] The Benedictines (Vit. Greg. l. i, p. 205-208) labour to reduce the monasteries of Gregory within the rule of their own order; but as the question is confessed to be doubtful, it is clear that these powerful monks are in the wrong. See Butler's Lives of the Saints, vol. iii, p. 145; a work of merit; the sense and learning belong to the author—his prejudices are those of his profession.

[y] Monasterium Gregorianum in ejusdem Beati Gregorii ædibus ad clivum Scauri prope ecclesiam S. S. Johannis et Pauli in honorem St. Andreæ, (John in Vit. Greg. l. i, c. 6; Greg. l. vii, epist. 13). This house and monastery were situate on the side of the Celian hill which fronts the Palatine; they are now occupied by the Camaldoli; San Gregorio triumphs, and St. Andrew has retired to a small chapel. Nardini, Roma Antica, l. iii, c. 6, p. 100. Descrizione di Roma, tom. i, p. 412-416.

had received the character of deacon, Gregory was sent to reside at the Byzantine court, the nuncio or minister of the apostolic see; and he boldly assumed, in the name of St Peter, a tone of independent dignity, which would have been criminal and dangerous in the most illustrious layman of the empire. He returned to Rome with a just increase of reputation, and after a short exercise of the monastic virtues, he was dragged from the cloister to the papal throne, by the unanimous voice of the clergy, the senate, and the people. He alone resisted, or seemed to resist his own elevation; and his humble petition, that Maurice would be pleased to reject the choice of the Romans, could only serve to exalt his character in the eyes of the emperor and the public. When the fatal mandate was pronounced, Gregory solicited the aid of some friendly merchants to convey him in a basket beyond the gates of Rome, and modestly concealed himself some days among the woods and mountains, till his retreat was discovered, as it is said, by a celestial light. CHAP. XLV.

The pontificate of Gregory the *Great*, which lasted thirteen years six months and ten days, is one of the most edifying periods of the history of the church. His virtues, and even his faults, a singular mixture of simplicity and cunning, of pride and humility, of sense and superstition, were happily suited to his station and to the temper of the times. In his rival, the patriarch of Constantinople, he condemned the antichristian title of universal bishop, which Pontificate of Gregory the Great, or First, A. D. 590, Feb. 8.—A. D. 604 March 12.

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His spiritual office.

the successor of St Peter was too haughty to concede, and too feeble to assume; and the ecclesiastical jurisdiction of Gregory was confined to the triple character of bishop of Rome, primate of Italy, and apostle of the West. He frequently ascended the pulpit, and kindled, by his rude, though pathetic eloquence, the congenial passions of his audience: the language of the Jewish prophets was interpreted and applied, and the minds of the people, depressed by their present calamities, were directed to the hopes and fears of the invisible world. His precepts and example defined the model of the Roman liturgy;[z] the distribution of the parishes, the calendar of festivals, the order of processions, the service of the priests and deacons, the variety and change of sacerdotal garments. Till the last days of his life, he officiated in the canon of the mass, which continued above three hours; the Gregorian chant[a] has preserved the vocal and instrumental music of the theatre, and the rough voices of the barbarians attempted to imitate the melody of the Roman school.[b] Experience had shewn

[z] The Lord's prayer consists of half a dozen lines: the Sacramentarius and Antiphonarius of Gregory fill 880 folio pages, (tom. iii, P. i, p. 1-880); yet these only constitute a part of the Ordo Romanus, which Mabillon has illustrated and Fleury has abridged, (Hist. Eccles. tom. viii, p. 139-152).

[a] I learn from the Abbé Dubos, (Reflections sur la Poesie et la Peinture, tom. iii, p. 174, 175), that the simplicity of the Ambrosian chant was confined to four modes, while the more perfect harmony of the Gregorian comprised the eight modes or fifteen chords of the ancient music. He observes (p. 332) that the connoisseurs admire the preface and many passages of the Gregorian office.

[b] John the deacon (in Vit. Greg. l. ii. c. 7) expresses the early contempt of the Italians for tramontane singing. Alpina scilicet

him the efficacy of these solemn and pompous rites, to sooth the distress, to confirm the faith, to mitigate the fierceness, and to dispel the dark enthusiasm of the vulgar; and he readily forgave their tendency to promote the reign of priesthood and superstition. The bishops of Italy and the adjacent islands acknowledged the Roman pontiff as their special metropolitan. Even the existence, the union, or the translation of episcopal seats, was decided by his absolute discretion: and his successful inroads into the provinces of Greece, of Spain, and of Gaul, might countenance the more lofty pretensions of succeeding popes. He interposed to prevent the abuses of popular elections; his jealous care maintained the purity of faith and discipline, and the apostolic shepherd assiduously watched over the faith and discipline of the subordinate pastors. Under his reign, the Arians of Italy and Spain were reconciled to the catholic church, and the conquest of Britain reflects less glory on the name of Cæsar, than on that of Gregory I. Instead of six legions, forty monks were embarked for that distant island, and the pontiff lamented the austere duties which forbade him to partake the perils of their spiritual warfare. In less than two years he could announce to the archbishop of Alexandria, that they had bap-

corpora vocum suarum tonitruis altisone perstrepentia, susceptæ modulationis dulcedinem propriè non resultant: quia bibuli gutturis barbara feritas dum inflexionibus et repercussionibus mitem nititur edere cantilenam, naturali quodam fragore quasi plaustra per gradus confuse sonantia rigidas voces jactat, &c. In the time of Charlemagne, the Franks, though with some reluctance, admitted the justice of the reproach. Muratori, Dissert. xxv.

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tized the king of Kent with ten thousand of his Anglo-Saxons; and that the Roman missionaries, like those of the primitive church, were armed only with spiritual and supernatural powers. The credulity or the prudence of Gregory was always disposed to confirm the truths of religion by the evidence of ghosts, miracles, and resurrections; [c] and posterity has paid to *his* memory the same tribute, which he freely granted to the virtue of his own or the preceding generation. The celestial honours have been liberally bestowed by the authority of the popes, but Gregory is the last of their own order whom they have presumed to inscribe in the calendar of saints.

and temporal government;

Their temporal power insensibly arose from the calamities of the times: and the Roman bishops, who have deluged Europe and Asia with blood, were compelled to reign as the ministers of charity and peace. I. The church of Rome, as it has been formerly observed, was endowed with ample possessions in Italy, Sicily, and the more distant provinces; and her agents, who were commonly subdeacons, had acquired a civil, and even criminal, jurisdiction over their tenants and husbandmen. The successor of St Peter administered his patrimony with the temper of a vigilant and moderate landlord; [d] and

his estates,

[c] A French critic (Petrus Gassendus, Opera, tom. ii. p. 105-112) has vindicated the right of Gregory to the entire nonsense of the Dialogues. Dupin (tom. v. p. 138) does not think that any one will vouch for the truth of all these miracles; I should like to know how many of them he believed himself.

[d] Baronius is unwilling to expatiate on the care of the patrimony, lest he should betray that they possessed not of kingdoms but farms.

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the epistles of Gregory are filled with salutary instructions to abstain from doubtful or vexatious law-suits; to preserve the integrity of weights and measures; to grant every reasonable delay, and to reduce the capitation of the slaves of the glebe, who purchased the right of marriage by the payment of an arbitrary fine.* The rent or the produce of these estates was transported to the mouth of the Tiber, at the risk and expence of the pope; in the use of wealth he acted like a faithful steward of the church and the poor, and liberally applied to their wants the inexhaustible resources of abstinence and order. The voluminous account of his receipts and disbursements was kept above three hundred years in the Lateran, as the model of Christian economy. On the four great festivals, he divided their quarterly allowance to the clergy, to his domestics, to the monasteries, the churches, the places of burial, the alms-houses, and the hospitals of Rome, and the rest of the diocese. On the first day of every month, he distributed to the poor, according to the season, their stated portion of corn, wine, cheese, vegetables, oil, fish, fresh provisions, clothes, and money; and his trea- and arms.

The French writers, the Benedictine editors, (tom. iv, l. iii, p. 272, &c.), and Fleury, (tom. viii, p. 29, &c.), are not afraid of entering into these humble, though useful, details; and the humanity of Fleury dwells on the social virtues of Gregory.

* I much suspect that this pecuniary fine on the marriages of villains produced the famous, and often fabulous, right, de cuissage, de marquette, &c. With the consent of her husband, an handsome bride might commute the payment in the arms of a young landlord, and the mutual favour might afford a precedent of local rather than legal tyranny.

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surers were continually summoned to satisfy, in his name, the extraordinary demands of indigence and merit. The instant distress of the sick and helpless, of strangers and pilgrims, was relieved by the bounty of each day, and of every hour: nor would the Pontiff indulge himself in a frugal repast, till he had sent the dishes from his own table to some objects deserving of his compassion. The misery of the times had reduced the nobles and matrons of Rome to accept, without a blush, the benevolence of the church: three thousand virgins received their food and raiment from the hand of their benefactor; and many bishops of Italy escaped from the barbarians to the hospitable threshold of the Vatican. Gregory might justly be styled the Father of his Country; and such was the extreme sensibility of his conscience, that, for the death of a beggar who had perished in the streets, he interdicted himself during several days from the exercise of sacerdotal functions. II. The misfortunes of Rome involved the apostolical pastor in the business of peace and war; and it might be doubtful to himself, whether piety or ambition prompted him to supply the place of his absent sovereign. Gregory awakened the emperor from a long slumber, exposed the guilt or incapacity of the exarch and his inferior ministers, complained that the veterans were withdrawn from Rome for the defence of Spoleto, encouraged the Italians to guard their cities and altars; and condescended, in the crisis of danger, to name the tribunes, and to direct the opera-

tions, of the provincial troops. But the martial spirit of the pope was checked by the scruples of humanity and religion; the imposition of tribute, though it was employed in the Italian war, he freely condemned as odious and oppressive; whilst he protected against the imperial edicts, the pious cowardice of the soldiers who deserted a military for a monastic life. If we may credit his own declarations, it would have been easy for Gregory to exterminate the Lombards by their domestic factions, without leaving a king, a duke, or a count, to save that unfortunate nation from the vengeance of their foes. As a Christian bishop, he preferred the salutary offices of peace; his mediation appeased the tumult of arms; but he was too conscious of the arts of the Greeks, and the passions of the Lombards, to engage his sacred promise for the observance of the truce. Disappointed in the hope of a general and lasting treaty, he presumed to save his country without the consent of the emperor or the exarch. The sword of the enemy was suspended over Rome; it was averted by the mild eloquence and seasonable gifts of the pontiff, who commanded the respect of heretics and barbarians. The merits of Gregory were treated by the Byzantine court with reproach and insult; but in the attachment of a grateful people, he found the purest reward of a citizen, and the best right of a sovereign.[1]

The Saviour of Rome.

[1] The temporal reign of Gregory I. is ably exposed by Sigonius in the first book, de Regno Italiæ. See his works, tom. ii. p. 44-75.

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Revolutions of Persia after the death of Chosroes or Nushirvan—His son, Hormouz, a tyrant, is deposed—Usurpation of Baharam—Flight and restoration of Chosroes II.—His gratitude to the Romans—The chagan of the Avars—Revolt of the army against Maurice—His death—Tyranny of Phocas—Elevation of Heraclius—The Persian war—Chosroes subdues Syria, Egypt, and Asia Minor—Siege of Constantinople by the Persians and Avars—Persian expeditions—Victories and triumph of Heraclius.

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Contest of Rome and Persia.

THE conflict of Rome and Persia was prolonged from the death of Crassus to the reign of Heraclius. An experience of seven hundred years might convince the rival nations of the impossibility of maintaining their conquests, beyond the fatal limits of the Tigris and Euphrates. Yet the emulation of Trajan and Julian was awakened by the trophies of Alexander, and the sovereigns of Persia indulged the ambitious hope of restoring the empire of Cyrus.[a] Such extraordinary efforts of power and courage will always command the attention of posterity; but the events by which the fate of nations is not

[a] Missis qui . . . reposcerent . . . veteres Persarum ac Macedonum terminos, sequi invasurum possessa Cyro et post Alexandro, per vaniloquentiam ac minus jaciebat. Tacit. Annal. vi. 31. Such was the language of the Arsacides; I have repeatedly marked the lofty claims of the Sassanians.

materially changed, leave a faint impression on the page of history, and the patience of the reader would be exhausted by the repetition of the same hostilities, undertaken without cause, prosecuted without glory, and terminated without effect. The arts of negotiation, unknown to the simple greatness of the senate and the Cæsars, were assiduously cultivated by the Byzantine princes; and the memorials of their perpetual embassies[b] repeat, with the same uniform prolixity, the language of falsehood and declamation, the insolence of the barbarians, and the servile temper of the tributary Greeks. Lamenting the barren superfluity of materials, I have studied to compress the narrative of these uninteresting transactions: but the just Nushirvan is still applauded as the model of oriental kings, and the ambition of his grandson Chosroes prepared the revolution of the East, which was speedily accomplished by the arms and the religion of the successors of Mahomet.

Conquest of Yemen by Nushirvan, A. D. 570, &c.

In the useless altercations that precede and justify the quarrels of princes, the Greeks and the barbarians accused each other of violating the peace which had been concluded between the two empires about four years before the death of Justinian. The sovereign of Persia and India aspired to reduce under his obedience the province of Yemen or Arabia[c] Felix;

[b] See the embassies of Menander, extracted and preserved in the xth century by the order of Constantine Porphyrogenitus.

[c] The general independence of the Arabs, which cannot be admitted without many limitations, is blindly asserted in a separate dissertation of the authors of the Universal History, vol. xx, p. 196-250. A perpetual miracle is supposed to have guarded the prophecy

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the distant land of myrrh and frankincense, which had escaped, rather than opposed, the conquerors of the East. After the defeat of Abrahah under the walls of Mecca, the discord of his sons and brothers gave an easy entrance to the Persians: they chased the strangers of Abyssinia beyond the Red Sea; and a native prince of the ancient Homerites was restored to the throne as the vassal or viceroy of the great Nushirvan.[d] But the nephew of Justinian declared his resolution to avenge the injuries of his Christian ally the prince of Abyssinia, as they suggested a decent pretence to discontinue the annual *tribute*, which was poorly disguised by the name of pension. The churches of Persarmenia were oppressed by the intolerant spirit of the Magi; they secretly invoked the protector of the Christians, and after the pious murder of their satraps, the rebels were avowed and supported as the brethren and subjects of the Roman emperor. The complaints of Nushirvan were disregarded by the Byzantine court; Justin yielded to the importunities of the Turks, who offered an alliance against the common enemy; and the Persian monarchy was threatened at the same instant by the unit-

in favour of the posterity of Ishmael; and these learned bigots are not afraid to risk the truth of Christianity on this frail and slippery foundation.

[d] D'Herbelot, Biblioth. Orient. p. 177. Pocock, Specimen Hist. Arabum, p. 64, 65. Father Pagi (Critica, tom. ii, p. 646) has proved, that after ten years peace, the Persian war, which continued twenty years, was renewed A. D. 571. Mahomet was born A. D. 569, in the year of the elephant, or the defeat of Abrahah, (Gagnier, Vie de Mahomet, tom. i, p. 89, 90, 93); and this account allows two years for the conquest of Yemen.

ed forces of Europe, of Æthiopia, and of Scythia. At the age of fourscore, the sovereign of the East would perhaps have chosen the peaceful enjoyment of his glory and greatness: but as soon as war became inevitable, he took the field with the alacrity of youth, whilst the aggressor trembled in the palace of Constantinople. Nushirvan, or Chosroes, conducted in person the siege of Dara; and although that important fortress had been left destitute of troops and magazines, the valour of the inhabitants resisted above five months the archers, the elephants, and the military engines of the great king. In the meanwhile his general Adarman advanced from Babylon, traversed the desert, passed the Euphrates, insulted the suburbs of Antioch, reduced to ashes the city of Apamea, and laid the spoils of Syria at the feet of his master, whose perseverance in the midst of winter, at length subverted the bulwark of the East. But these losses, which astonished the provinces and the court, produced a salutary effect in the repentance and abdication of the emperor Justin: a new spirit arose in the Byzantine councils; and a truce of three years was obtained by the prudence of Tiberius. That seasonable interval was employed in the preparations of war; and the voice of rumour proclaimed to the world, that from the distant countries of the Alps and the Rhine, from Scythia, Mæsia, Pannonia, Illyricum, and Isauria, the strength of the imperial cavalry was reinforced with one hundred and fifty thousand soldiers. Yet the king of Persia, without fear, or without faith, resolved

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His last war with the Romans, A. D. 572, &c.

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to prevent the attack of the enemy: again passed the Euphrates, and dismissing the ambassadors of Tiberius, arrogantly commanded them to await his arrival at Cæsarea, the metropolis of the Cappadocian provinces. The two armies encountered each other in the battle of Melitene: the barbarians, who darkened the air with a cloud of arrows, prolonged their line, and extended their wings across the plain; while the Romans, in deep and solid bodies, expected to prevail in closer action, by the weight of their swords and lances. A Scythian chief, who commanded their right wing, suddenly turned the flank of the enemy, attacked their rear-guard in the presence of Chosroes, penetrated to the midst of the camp, pillaged the royal tent, profaned the eternal fire, loaded a train of camels with the spoils of Asia, cut his way through the Persian host, and returned with songs of victory to his friends, who had consumed the day in single combats, or ineffectual skirmishes. The darkness of the night, and the separation of the Romans, afforded the Persian monarch an opportunity of revenge; and one of their camps was swept away by a rapid and impetuous assault. But the review of his loss, and the consciousness of his danger, determined Chosroes to a speedy retreat; he burnt, in his passage, the vacant town of Melitene; and, without consulting the safety of his troops, boldly swam the Euphrates on the back of an elephant. After this unsuccessful campaign, the want of magazines, and perhaps some inroad of the Turks, obliged him to disband or

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divide his forces; the Romans were left masters of the field, and their general Justinian, advancing to the relief of the Persarmenian rebels, erected his standard on the banks of the Araxes. The great Pompey had formerly halted within three days' march of the Caspian:[e] that inland sea was explored for the first time, by an hostile fleet,[f] and seventy thousand captives were transplanted from Hyrcania to the isle of Cyprus. On the return of spring, Justinian descended into the fertile plains of Assyria, the flames of war approached the residence of Nushirvan, the indignant monarch sunk into the grave, and his last edict restrained his successors from exposing their person in a battle against the Romans. Yet the memory of this transient affront was lost in the glories of a long reign; and his formidable enemies, after indulging their dream of conquest, again solicited a short respite from the calamities of war.[g]

His death, A. D. 579.

[e] He had vanquished the Albanians, who brought into the field 12,000 horse and 60,000 foot; but he dreaded the multitude of venomous reptiles, whose existence may admit of some doubt, as well as that of the neighbouring Amazons. Plutarch. in Pompeio, tom. ii, p. 1165, 1166.

[f] In the history of the world I can only perceive two navies on the Caspian.—1. Of the Macedonians, when Patrocles, the admiral of the kings of Syria, Seleucus and Antiochus, descended most probably the river Oxus, from the confines of India, (Plin. Hist. Natur. vi, 21). 2. Of the Russians, when Peter I. conducted a fleet and army from the neighbourhood of Moscow to the coast of Persia, (Bell's Travels, vol. ii, p. 325-352). He justly observes, that such martial pomp had never been displayed on the Volga.

[g] For these Persian wars and treaties, see Menander, in Excerpt. Legat. p. 113-125; Theophanes Byzant. apud Photium, cod. lxiv, p. 77, 80, 81; Evagrius, l. v, c. 7-15; Theophylact. l. iii, c. 9-16; Agathias, l. iv, p. 140.

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Tyranny and vices of his son Hormouz, A. D. 579-590.

The throne of Chosroes Nushirvan was filled by Hormouz, or Hormisdas, the eldest or the most favoured of his sons. With the kingdoms of Persia and India, he inherited the reputation and example of his father, the service, in every rank, of his wise and valiant officers, and a general system of administration, harmonized by time and political wisdom, to promote the happiness of the prince and people. But the royal youth enjoyed a still more valuable blessing, the friendship of a sage who had presided over his education, and who always preferred the honour to the interest of his pupil, his interest to his inclination. In a dispute with the Greek and Indian philosophers, Buzurg[h] had once maintained, that the most grievous misfortune of life is old age without the remembrance of virtue; and our candour will presume that the same principle compelled him, during three years, to direct the councils of the Persian empire. His zeal was rewarded by the gratitude and docility of Hormouz, who acknowledged himself more indebted to his preceptor than to his parent: but when age and labour had impaired the strength and perhaps the faculties of this prudent counsellor, he retired from court, and abandoned the youthful monarch to his own

[h] Buzurg Mihir may be considered, in his character and station, as the Seneca of the East; but his virtues, and perhaps his faults, are less known than those of the Roman, who appears to have been much more loquacious. The Persian sage was the person who imported from India the game of chess and the fables of Pilpay. Such has been the fame of his wisdom and virtues, that the Christians claim him as a believer in the gospel; and the Mahometans revere Buzurg as a premature Mussulman. D'Herbelot, Bibliotheque Orientale, p. 218.

passions and those of his favourites. By the fatal vicissitude of human affairs, the same scenes were renewed at Ctesiphon, which had been exhibited in Rome after the death of Marcus Antoninus. The ministers of flattery and corruption, who had been banished by the father, were recalled and cherished by the son; the disgrace and exile of the friends of Nushirvan established their tyranny; and virtue was driven by degrees from the mind of Hormouz, from his palace, and from the government of the state. The faithful agents, the eyes and ears of the king, informed him of the progress of disorder, that the provincial governors flew to their prey with the fierceness of lions and eagles, and that their rapine and injustice would teach the most loyal of his subjects to abhor the name and authority of their sovereign. The sincerity of this advice was punished with death, the murmurs of the cities were despised, their tumults were quelled by military execution; the intermediate powers between the throne and the people were abolished; and the childish vanity of Hormouz, who affected the daily use of the tiara, was fond of declaring, that he alone would be the judge as well as the master of his kingdom. In every word, and in every action, the son of Nushirvan degenerated from the virtues of his father. His avarice defrauded the troops; his jealous caprice degraded the satraps; the palace, the tribunals, the waters of the Tigris, were stained with the blood of the innocent, and the tyrant exulted in the sufferings and execution of thirteen thousand victims. As the excuse of his

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cruelty, he sometimes condescended to observe, that the fears of the Persians would be productive of hatred, and that their hatred must terminate in rebellion: but he forgot that his own guilt and folly had inspired the sentiments which he deplored, and prepared the event which he so justly apprehended. Exasperated by long and hopeless oppression, the provinces of Babylon, Susa, and Carmania, erected the standard of revolt; and the princes of Arabia, India, and Scythia, refused the customary tribute to the unworthy successor of Nushirvan. The arms of the Romans, in slow sieges and frequent inroads, afflicted the frontiers of Mesopotamia and Assyria; one of their generals professed himself the disciple of Scipio, and the soldiers were animated by a miraculous image of Christ, whose mild aspect should never have been displayed in the front of battle.[1] At the same time, the eastern provinces of Persia were invaded by the great khan, who passed the Oxus at the head of three or four hundred thousand Turks. The imprudent Hormouz accepted their perfidious and formidable aid; the cities of Khorasan or Bactriana were commanded to open their gates; the march of the barbarians towards the mountains of Hyrcania revealed the correspondence of the Turkish and Roman arms; and their union must have subverted the throne of the house of Sassan.

[1] See the imitation of Scipio in Theophylact, l. i, c. 14; the image of Christ, l. ii, c. 3. Hereafter I shall speak more amply of the Christian images—I had almost said idols. This, if I am not mistaken, is the oldest αχειροποιητος of divine manufacture; but in the next thousand years, many others issued from the same workshop.

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Exploits of Bahram, A. D. 590.

Persia had been lost by a king; it was saved by an hero. After his revolt, Varanes or Bahram is stigmatized by the son of Hormouz as an ungrateful slave: the proud and ambiguous reproach of despotism, since he was truly descended from the ancient princes of Rei,[k] one of the seven families whose splendid, as well as substantial prerogatives exalted them above the heads of the Persian nobility.[l] At the siege of Dara, the valour of Bahram was signalized under the eyes of Nushirvan, and both the father and son successively promoted him to the command of armies, the government of Media, and the superintendance of the palace. The popular prediction which marked him as the deliverer of Persia, might be inspired by his past victories and extraordinary figure: the epithet *Giubin* is expressive of the quality of *dry wood*; he had the strength and stature of a giant, and

[k] Rages, or Rei, is mentioned in the apocryphal book of Tobit as already flourishing, 700 years before Christ, under the Assyrian empire. Under the foreign names of Europus and Arsacia, this city, 500 stadia to the south of the Caspian gates, was successively embellished by the Macedonians and Parthians, (Strabo, l. xi, p. 796). Its grandeur and populousness in the ixth century is exaggerated beyond the bounds of credibility; but Rei has been since ruined by wars and the unwholesomeness of the air. Chardin, Voyage en Perse, tom. i, p. 279, 280. D'Herbelot, Biblioth. Oriental. p. 714.

[l] *Theophylact*, l. iii, c. 19. The story of the seven Persians is told in the third book of Herodotus; and their noble descendants are often mentioned, especially in the fragments of Ctesias. Yet the independence of Otanes (Herodot. l. iii, c. 83-84) is no tile to the spirit of despotism, and it may not seem probable that the seven families could survive the revolutions of eleven hundred years. They might, however, be represented by the seven ministers, (Brizzon, de Regno Persico, l. i, p. 190); and some Persian nobles, like the kings of Pontus (Polyb. l. v, p. 540) and Cappadocia, (Diodor. Sicul. l. xxxi, tom. ii, p. 517), might claim their descent from the bold companions of Darius.

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his savage countenance was fancifully compared to that of a wild cat. While the nation trembled, while Hormouz disguised his terror by the name of suspicion, and his servants concealed their disloyalty under the mask of fear, Bahram alone displayed his undaunted courage and apparent fidelity: and as soon as he found that no more than twelve thousand soldiers would follow him against the enemy, he prudently declared, that to this fatal number, heaven had reserved the honours of the triumph. The steep and narrow descent of the Pule Rudbar [m] or Hyrcanian rock, is the only pass through which an army can penetrate into the territory of Rei and the plains of Media. From the commanding heights, a band of resolute men might overwhelm with stones and darts the myriads of the Turkish host: their emperor and his son were transpierced with arrows; and the fugitives were left, without council or provisions, to the revenge of an injured people. The patriotism of the Persian general was stimulated by his affection for the city of his forefathers; in the hour of victory every peasant became a soldier, and every soldier an hero; and their ardour was kindled by the gorgeous spectacle of beds, and thrones, and tables of massy gold, the spoils of Asia, and the luxury of the hostile camp. A prince of a less malignant temper could not easily have forgiven his benefactor, and the secret hatred of Hormouz

[m] See an accurate description of this mountain by Olearius, (Voyage en Perse, p. 997, 998), who attended it with much difficulty and danger in his return from Ispahan to the Caspian sea.

was envenomed by a malicious report, that Bahram had privately retained the most precious fruits of his Turkish victory. But the approach of a Roman army on the side of the Araxes compelled the implacable tyrant to smile and to applaud; and the toils of Bahram were rewarded with the permission of encountering a new enemy, by their skill and discipline more formidable than a Scythian multitude. Elated by his recent success, he dispatched an herald with a bold defiance to the camp of the Romans, requesting them to fix a day of battle, and to choose whether they would pass the river themselves, or allow a free passage to the arms of the great king. The lieutenant of the emperor Maurice preferred the safer alternative, and this local circumstance, which would have enhanced the victory of the Persians, rendered their defeat more bloody, and their escape more difficult. But the loss of his subjects, and the danger of his kingdom, were overbalanced in the mind of Hormouz by the disgrace of his personal enemy; and no sooner had Bahram collected and reviewed his forces, than he received from a royal messenger the insulting gift of a distaff, a spinning-wheel, and a complete suit of female apparel. Obedient to the will of his sovereign, he shewed himself to the soldiers in this unworthy disguise: they resented his ignominy and their own; a shout of rebellion ran through the ranks, and the general accepted their oaths of fidelity and vows of revenge. A second messenger, who had been commanded to bring

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His rebellion.

the rebel in chains, was trampled under the feet of an elephant, and manifestos were diligently circulated, exhorting the Persians to assert their freedom against an odious and contemptible tyrant. The defection was rapid and universal: his loyal slaves were sacrificed to the public fury; the troops deserted to the standard of Bahram; and the provinces again saluted the deliverer of his country.

Hormouz is deposed and imprisoned.

As the passes were faithfully guarded, Hormouz could only compute the number of his enemies by the testimony of a guilty conscience, and the daily defection of those who, in the hour of his distress, avenged their wrongs, or forgot their obligations. He proudly displayed the ensigns of royalty; but the city and palace of Modain had already escaped from the hand of the tyrant. Among the victims of his cruelty, Bindoes, a Sassanian prince, had been cast into a dungeon: his fetters were broken by the zeal and courage of a brother; and he stood before the king at the head of those trusty guards who had been chosen as the ministers of his confinement, and perhaps of his death. Alarmed by the hasty intrusion and bold reproaches of the captive, Hormouz looked round, but in vain, for advice or assistance; discovered that his strength consisted in the obedience of others, and patiently yielded to the single arm of Bindoes, who dragged him from the throne to the same dungeon in which he himself had been so lately confined. At the first tumult, Chosroes, the eldest of the sons of Hormouz, escaped from the city; he was per-

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suaded to return by the pressing and friendly invitation of Bindoes, who promised to seat him on his father's throne, and who expected to reign under the name of an inexperienced youth. In the just assurance, that his accomplices could neither forgive nor hope to be forgiven, and that every Persian might be trusted as the judge and enemy of the tyrant, he instituted a public trial without a precedent and without a copy in the annals of the East. The son of Nushirvan, who had requested to plead in his own defence, was introduced as a criminal into the full assembly of the nobles and satraps.[n] He was heard with decent attention as long as he expatiated on the advantages of order and obedience, the danger of innovation, and the inevitable discord of those who had encouraged each other to trample on their lawful and hereditary sovereign. By a pathetic appeal to their humanity, he extorted that pity which is seldom refused to the fallen fortunes of a king; and while they beheld the abject posture and squalid appearance of the prisoner, his tears, his chains, and the marks of ignominious stripes, it was impossible to forget how recently they had adored the divine splendour of his diadem and purple. But an angry murmur arose in the assembly as soon as he presumed to vindicate his conduct, and to applaud the victories of his reign. He defined the duties of a king, and the Persian nobles listened with a smile of con-

[n] The Orientals suppose that Bahram convened this assembly and proclaimed Chosroes; but Theophylact is, in this instance, more distinct and credible.

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tempt; they were fired with indignation when he dared to vilify the character of Chosroes; and by the indiscreet offer of resigning the sceptre to the second of his sons, he subscribed his own condemnation, and sacrificed the life of his innocent favourite. The mangled bodies of the boy and his mother were exposed to the people; the eyes of Hormouz were pierced with a hot needle; and the punishment of the father was succeeded by the coronation of his eldest son. Chosroes had ascended the throne without guilt, and his piety strove to alleviate the misery of the abdicated monarch: from the dungeon he removed Hormouz to an apartment of the palace, supplied with liberality the consolations of sensual enjoyment, and patiently endured the furious sallies of his resentment and despair. He might despise the resentment of a blind and unpopular tyrant, but the tiara was trembling on his head, till he could subvert the power, or acquire the friendship, of the great Bahram, who sternly denied the justice of a revolution, in which himself and his soldiers, the true representatives of Persia, had never been consulted. The offer of a general amnesty, and of the second rank in his kingdom, was answered by an epistle from Bahram, friend of the gods, conqueror of men, and enemy of tyrants, the satrap of satraps, general of the Persian armies, and a prince adorned with the title of eleven virtues.[o] He commands

Elevation of his son Chosroes.

[o] See the words of Theophylact, l. iv. c. 7. Βαραμ φιλος τοις θεοις, νικητης ἐπιφανης, τυραννων ἐχθρος, σατραπης μεγιστανων, της Περσικης ἀρχων δυναμεως, &c. In this answer, Chosroes styles himself τη

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Chosroes, the son of Hormouz, to shun the example and fate of his father, to confine the traitors who had been released from their chains, to deposite in some holy place the diadem which he had usurped, and to accept from his gracious benefactor the pardon of his faults and the government of a province. The rebel might not be proud, and the king most assuredly was not humble; but the one was conscious of his strength, the other was sensible of his weakness; and even the modest language of his reply still left room for treaty and reconciliation. Chosroes led into the field the slaves of the palace and the populace of the capital: they beheld with terror the banners of a veteran army; they were encompassed and surprised by the evolutions of the general; and the satraps who had deposed Hormouz, received the punishment of their revolt, or expiated their first treason by a second and more criminal act of disloyalty. The life and liberty of Chosroes were saved, but he was reduced to the necessity of imploring aid or refuge in some foreign land; and the implacable Bindoes, anxious to secure an unquestionable title, hastily returned to the palace, and ended, with a bow-string, the wretched existence of the son of Nushirvan.[p]

Death of Hormouz, A. D. 590.

While Chosroes dispatched the preparations

νυκτι χαριζομενος ομματα . . . . . ὁ τῆς Ασιας (the genii) κισθυμενος. This is genuine oriental bombast.

[p] Theophylact (l. iv, c. 7) imputes the death of Hormouz to his son, by whose command he was beaten to death with clubs. I have followed the milder account of Khondemir and Eutychius, and shall always be content with the slightest evidence to extenuate the crime of parricide.

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Chosroes flies to the Romans.

of his retreat, he deliberated with his remaining friends,[q] whether he should lurk in the valleys of mount Caucasus, or fly to the tents of the Turks, or solicit the protection of the emperor. The long emulation of the successors of Artaxerxes and Constantine increased his reluctance to appear as a suppliant in a rival court; but he weighed the forces of the Romans, and prudently considered, that the neighbourhood of Syria would render his escape more easy, and their succours more effectual. Attended only by his concubines, and a troop of thirty guards, he secretly departed from the capital, followed the banks of the Euphrates, traversed the desert, and halted at the distance of ten miles from Circesium. About the third watch of the night, the Roman prefect was informed of his approach, and he introduced the royal stranger to the fortress at the dawn of day. From thence the king of Persia, was conducted to the more honourable residence of Hierapolis; and Maurice dissembled his pride, and displayed his benevolence, at the reception of the letters and ambassadors of the grandson of Nushirvan. They humbly represented the vicissitudes of fortune and the common interest of princes, exaggerated the ingratitude of Bahram the agent of the evil principle, and urged, with specious argument, that it was for the advantage

[q] After the battle of Pharsalia, the Pompey of Lucan (l. viii. 256-455) holds a similar debate. He was himself desirous of seeking the Parthians; but his companions abhorred the unnatural alliance; and the adverse prejudices might operate as forcibly as Chosroes and his companions, who could describe, with the same vehemence, the contrast of laws, religion, and manners, between the East and West.

of the Romans themselves to support the two monarchies which balance the world, the two great luminaries by whose salutary influence it is vivified and adorned. The anxiety of Chosroes was soon relieved by the assurance, that the emperor had espoused the cause of justice and royalty;* but Maurice prudently declined the expence and delay of his useless visit to Constantinople. In the name of his generous benefactor, a rich diadem was presented to the fugitive prince with an inestimable gift of jewels and gold; a powerful army was assembled on the frontiers of Syria and Armenia under the command of the valiant and faithful Narses,† and this general, of his own nation, and his own choice, was directed to pass the Tigris, and never to sheathe his sword till he had restored Chosroes to the throne of his ancestors. The enterprise, however splendid, was less arduous than it might appear. Persia had already repented of her fatal rashness, which betrayed the heir of the house of Sassan to the ambition of a rebellious subject; and the bold refusal of the Magi to consecrate his usurpation, compelled Bahram to assume the sceptre, regardless of the laws and prejudices of the nation. The palace was soon distracted with conspiracy, the

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His return.

† In this age there were three warriors of the name of Narses, who have been often confounded, (Pagi, Critica, tom. ii, p. 610).—1. A Persarmenian, the brother of Isaac and Armatius, who, after a successful action against Belisarius, deserted from his Persian sovereign, and afterwards served in the Italian war. 2. The eunuch who conquered Italy. 3. The restorer of Chosroes, who is celebrated in the poem of Corippus (l. iii, 220-227) as excelsus super omnia vertice agmina .... habitu modestus .... morum probitate placens, virtute verendus; fulmineus, cautus, vigilans, &c.

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city with tumult, the provinces with insurrection; and the cruel execution of the guilty and the suspected, served to irritate rather than subdue the public discontent. No sooner did the grandson of Nushirvan display his own and the Roman banners beyond the Tigris, than he was joined, each day, by the increasing multitudes of the nobility and people; and as he advanced, he received from every side the grateful offerings of the keys of his cities and the heads of his enemies. As soon as Modain was freed from the presence of the usurper, the loyal inhabitants obeyed the first summons of Mebodes at the head of only two thousand horse, and Chosroes accepted the sacred and precious ornaments of the palace as the pledge of their truth and a presage of his approaching success. After the junction of the imperial troops, which Bahram vainly struggled to prevent, the contest was decided by two battles on the banks of the Zab, and the confines of Media. The Romans, with the faithful subjects of Persia, amounted to sixty thousand, while the whole force of the usurper did not exceed forty thousand men: the two generals signalized their valour and ability, but the victory was finally determined by the prevalence of numbers and discipline. With the remnant of a broken army, Bahram fled towards the eastern provinces of the Oxus: the enmity of Persia reconciled him to the Turks; but his days were shortened by poison, perhaps the most incurable of poisons; the stings of remorse and despair, and the bitter remembrance of lost glory. Yet the

and final victory.

Death of Bahram.

modern Persians still commemorate the exploits of Bahram; and some excellent laws have prolonged the duration of his troubled and transitory reign.

Restoration and policy of Chosroes, A. D. 591-603.

The restoration of Chosroes was celebrated with feasts and executions; and the music of the royal banquet was often disturbed by the groans of dying or mutilated criminals. A general pardon might have diffused comfort and tranquillity through a country which had been shaken by the late revolutions; yet, before the sanguinary temper of Chosroes is blamed, we should learn whether the Persians had not been accustomed either to dread the rigour, or to despise the weakness, of their sovereign. The revolt of Bahram, and the conspiracy of the satraps, were impartially punished by the revenge or justice of the conqueror; the merits of Bindoes himself could not purify his hand from the guilt of royal blood; and the son of Hormouz was desirous to assert his own innocence, and to vindicate the sanctity of kings. During the vigour of the Roman power, several princes were seated on the throne of Persia by the arms and the authority of the first Cæsars. But their new subjects were soon disgusted with the vices or virtues which they had imbibed in a foreign land; the instability of their dominion gave birth to a vulgar observation, that the choice of Rome was solicited and rejected with equal ardour by the capricious levity of oriental slaves.[1] But the glory of Maurice was conspi-

[1] 'Experimentis cognitum est barbaros malle Romæ petere reges quam habere. These experiments are admirably represented in the

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cuous in the long and fortunate reign of his *son* and his ally. A band of a thousand Romans, who continued to guard the person of Chosroes, proclaimed his confidence in the fidelity of the strangers; his growing strength enabled him to dismiss his unpopular aid, but he steadily professed the same gratitude and reverence to his adopted father; and till the death of Maurice, the peace and alliance of the two empires were faithfully maintained. Yet the mercenary friendship of the Roman prince had been purchased with costly and important gifts: the strong cities of Martyropolis and Dara were restored, and the Persarmenians became the willing subjects of an empire, whose eastern limit was extended, beyond the example of former times, as far as the banks of the Araxes and the neighbourhood of the Caspian. A pious hope was indulged, that the church, as well as the state, might triumph in this revolution; but if Chosroes had sincerely listened to the Christian bishops, the impression was erased by the zeal and eloquence of the Magi; if he was armed with philosophic indifference, he accommodated his belief, or rather his professions, to the various circumstances of an exile and a sovereign. The imaginary conversion of the king of Persia was reduced to a local and superstitious veneration for Sergius,[1] one of the saints

invitation and expulsion of Vonones, (Annal. ii. 1-3); Tiridates (Annal. vi. 31-44), and Meherdates, (Annal. xi. 10; xii. 10-14). The eye of Tacitus seems to have transpierced the camp of the Parthians and the walls of the haram.

[1] Sergius and his companion Bacchus, who are said to have suffered in the persecution of Maximian, obtained divine honour in

of Antioch, who heard his prayers and appeared to him in dreams; he enriched his shrine with offerings of gold and silver, and ascribed to his invisible patron, the success of his arms, and the pregnancy of Sira, a devout Christian, and the best beloved of his wives.[u] The beauty of Sira or Schirin,[x] her wit, her musical talents, are still famous in the history, or rather in the romances of the East: her own name is expressive, in the Persian tongue, of sweetness and grace; and the epithet of *Parviz* alludes to the charms of her royal lover. Yet Sira never shared the passion which she inspired, and the bliss of Chosroes was tortured by a jealous doubt, that while he possessed her person, she had bestowed her affections on a meaner favourite.[y]

France, Italy, Constantinople, and the East. Their tomb at Rasaphe was famous for miracles, and that Syrian town acquired the more honourable name of Sergiopolis. Tillemont, Mem. Eccles. tom. v, p. 491-496. Butler's Saints, vol. x, p. 155.

[u] Evagrius, (l. vi, c. 21), and Theophylact, (l. v, c. 13, 14), have preserved the original letters of Chosroes, written in Greek, signed with his own hand, and afterwards inscribed on crosses and tables of gold, which were deposited in the church of Sergiopolis. They had been sent to the bishop of Antioch, as primate of Syria.

[x] The Greeks only describe her as a Roman by birth, a Christian by religion; but she is represented as the daughter of the emperor Maurice in the Persian and Turkish Romances, which celebrate the love of Khosrou for Schirin, of Schirin for Ferhad, the most beautiful youth of the East. D'Herbelot, Bibliothèque Orient. p. 769, 997, 998.

[y] The whole series of the tyranny of Hormouz, the revolt of Bahram, and the flight and restoration of Chosroes, is related by two contemporary Greeks—more concisely by Evagrius, (l. vi, c. 16, 17, 18, 19)—and most diffusely by Theophylact Simocatta, (l. iii, c. 6-18; l. iv, c. 1-16; l. v, c. 1-15); succeeding compilers, Zonaras and Cedrenus, can only transcribe and abridge. The Christian Arabs Eutychius, (Annal. tom. ii, p. 200-208), and Abulpharagius, (Dy-

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Pride, policy, and power of the chagan of the Avars, A. D. 570-600, &c.

While the majesty of the Roman name was revived in the East, the prospect of Europe is less pleasing and less glorious. By the departure of the Lombards, and the ruin of the Gepidæ, the balance of power was destroyed on the Danube; and the Avars spread their permanent dominion from the foot of the Alps to the sea-coast of the Euxine. The reign of Baian is the brightest era of their monarchy; their chagan, who occupied the rustic palace of Attila, appears to have imitated his character and policy;* but as the same scenes were repeated in a smaller circle, a minute representation of the copy would be devoid of the greatness and novelty of the original. The pride of the second Justin, of Tiberius, and Maurice, was humbled by a proud barbarian, more prompt to inflict, than exposed to suffer the injuries of war; and as often as Asia was threatened by the Persian arms, Europe was

nast. p. 96-98), appear to have consulted some particular memoirs. The great Persian historians of the xvth century, Mirkhond and Khondemir, are only known to me by the imperfect extracts of Shikard, (Turik, p. 150-155); Texeira, or rather Stevens, (Hist. of Persia, p. 182-190); a Turkish MS. translated by the Abbé Fourmont, (Hist. de l'Academie des Inscriptions, tom. vii, p. 325-334), and d'Herbelot, (aux mots, Hormouz, p. 457-459; Bahram, p. 174; Khosroo Parviz, p. 996). Were I perfectly satisfied of their authority, I could wish these oriental materials had been more copious.

* A general idea of the pride and power of the chagan may be taken from Menander, (Excerpt. Legat. p. 117, &c.), and Theophylact (l. i, c. 8; l. vii, c. 15), whose eight books are much more honourable to the Avar than to the Roman prince. The predecessors of Baian had tasted the liberality of Rome, and he survived the reign of Maurice. (Buat, Hist. des Peuples Barbares, tom. xi, p. 545). The chagan who invaded Italy A. D. 611, (Muratori, Annali, tom. v, p. 305), was then juvenili ætate florentem, (Paul Warnefrid, de Gest. Langobard, l. v, c. 38), the son, perhaps, or the grandson of Baian.

oppressed by the dangerous inroads, or costly friendship of the Avars. When the Roman envoys approached the presence of the chagan, they were commanded to wait at the door of his tent, till, at the end perhaps of ten or twelve days, he condescended to admit them. If the substance or the style of their message was offensive to his ear, he insulted, with a real or affected fury, their own dignity, and that of their prince; their baggage was plundered, and their lives were only saved by the promise of a richer present and a more respectful address. But *his* sacred ambassadors enjoyed and abused an unbounded license in the midst of Constantinople: they urged, with importunate clamours, the increase of tribute, or the restitution of captives and deserters; and the majesty of the empire was almost equally degraded by a base compliance, or by the false and fearful excuses, with which they eluded such insolent demands. The chagan had never seen an elephant; and his curiosity was excited by the strange, and perhaps fabulous portrait of that wonderful animal. At his command, one of the largest elephants of the imperial stables was equipped with stately caparisons, and conducted by a numerous train to the royal village in the plains of Hungary. He surveyed the enormous beast with surprise, with disgust, and possibly with terror; and smiled at the vain industry of the Romans, who, in search of such useless rarities, could explore the limits of the land and sea. He wished, at the expence of the emperor, to re-

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pose in a golden bed. The wealth of Constantinople, and the skilful diligence of her artists, were instantly devoted to the gratification of his caprice; but when the work was finished, he rejected with scorn a present so unworthy the majesty of a great king.[a] These were the casual sallies of his pride, but the avarice of the chagan was a more steady and tractable passion; a rich and regular supply of silk apparel, furniture, and plate, introduced the rudiments of art and luxury among the tents of the Scythians; their appetite was stimulated by the pepper and cinnamon of India;[b] the annual subsidy or tribute was raised from fourscore to one hundred and twenty thousand pieces of gold; and after each hostile interruption, the payment of the arrears, with exorbitant interest, was always made the first condition of the new treaty. In the language of a barbarian without guile, the prince of the Avars affected to complain of the insincerity of the Greeks,[c] yet he was not inferior to the most civilized nations in the refinements of dissimulation and perfidy. As the successor of the Lombards, the chagan asserted his claim to the important city of Sirmium, the ancient bulwark of the Illyrian pro-

[a] Theophylact, l. i, c. 5, 6.

[b] Even in the field, the chagan delighted in the use of these aromatics. He solicited as a gift, Ινδικας καρυχιας, and received πιπερι και φυλλον Ινδων, κασσιαν τε και τον λεγομενον κοσον. Theophylact, l. vii, c. 13. The Europeans of the ruder ages consumed more spices in their meat and drink than is compatible with the delicacy of a modern palate. Vie Privée des François, tom. ii, p. 162, 163.

[c] Theophylact, l. vi, c. 6.; l. vii, c. 15. The Greek historian confesses the truth and justice of his reproach.

vinces.[d] The plains of the lower Hungary were covered with the Avar horse, and a fleet of large boats was built in the Hyrcinian wood, to descend the Danube, and to transport into the Save the materials of a bridge. But as the strong garrison of Singidunum, which commanded the conflux of the two rivers, might have stopped their passage and baffled his designs, he dispelled their apprehensions by a solemn oath, that his views were not hostile to the empire. He swore by his sword, the symbol of the god of war, that he did not, as the enemy of Rome, construct a bridge upon the Save. "If I violate my oath," pursued the intrepid Baian, "may I myself, and the last "of my nation, perish by the sword! may the "heavens and fire, the deity of the heavens, "fall upon our heads! may the forests and "mountains bury us in their ruins! and the "Save returning, against the laws of nature, "to his source, overwhelm us in his angry "waters!" After this barbarous imprecation, he calmly inquired, what oath was most sacred and venerable among the Christians, what guilt of perjury it was most dangerous to incur. The bishop of Singidunum presented the gospel, which the chagan received with devout reverence. "I swear," said he, "by the God "who has spoken in this holy book, that I "have neither falsehood on my tongue, nor "treachery in my heart." As soon as he rose

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[d] Menander (in Excerpt. Legat. p. 126 132, 174, 175) describes the perjury of Baian and the surrender of Sirmium. We have lost his account of the siege, which is commended by Theophylact. l. i. c. 3. Τὰ δ' ἐκεῖ Μενάνδρου πραχθέντα ἐκεῖθεν διηγήσεται.

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from his knees, he accelerated the labour of the bridge, and dispatched an envoy to proclaim what he no longer wished to conceal. "Inform the emperor," said the perfidious "Baian, "that Sirmium is invested on every "side. Advise his prudence to withdraw the "citizens and their effects, and to resign a ci- "ty which it is now impossible to relieve or "defend." Without the hope of relief, the defence of Sirmium was prolonged above three years; the walls were still untouched; but famine was inclosed within the walls, till a merciful capitulation allowed the escape of the naked and hungry inhabitants. Singidunum, at the distance of fifty miles, experienced a more cruel fate: the buildings were razed, and the vanquished people was condemned to servitude and exile. Yet the ruins of Sirmium are no longer visible; the advantageous situation of Singidunum soon attracted a new colony of Sclavonians, and the conflux of the Save and Danube is still guarded by the fortifications of Belgrade, or the *White City*, so often and so obstinately disputed by the Christian and Turkish arms.[e] From Belgrade to the walls of Constantinople, a line may be measured of six hundred miles: that line was marked with flames and with blood; the horses of the Avars were alternately bathed in the Euxine and the Adriatic; and the Roman pontiff, alarmed by the

[e] See d'Anville, in the Memoires de l'Acad. des Inscriptions, tom. xxviii. p. 412-443. The Sclavonic name of Belgrade is mentioned in the xth century by Constantine Porphyrogenitus; the Latin appellation of Alba Græca is used by the Franks in the beginning of the ixth, (p. 414).

approach of a more savage enemy,[f] was reduced to cherish the Lombards as the protectors of Italy. The despair of a captive, whom his country refused to ransom, disclosed to the Avars the invention and practice of military engines;[g] but in the first attempts, they were rudely framed and awkwardly managed; and the resistance of Diocletianopolis and Beræa, of Philippopolis and Adrianople, soon exhausted the skill and patience of the besiegers. The warfare of Baian was that of a Tartar, yet his mind was susceptible of a humane and generous sentiment: he spared Anchialus, whose salutary waters had restored the health of the best beloved of his wives; and the Romans confess, that their starving army was fed and dismissed by the liberality of a foe. His empire extended over Hungary, Poland, and Prussia, from the mouth of the Danube to that of the Oder;[h] and his new subjects were divided and transplanted by the jealous policy of the conqueror.[i] CHAP. XLVI.

[f] Baron. Annal. Eccles. A. D. 600, No. 1. Paul Warnefrid (l. iv, c. 38) relates their irruption into Friuli, and (c. 39) the captivity of his ancestors, about A. D. 632. The Sclavi traversed the Hadriatic, cum multitudine navium, and made a descent in the territory of Sipontum, (c. 47).

[g] Even the helepolis, or moveable turret. Theophylact, l. ii, 16. 17.

[h] The arms and alliances of the chagan reached to the neighbourhood of a western sea, fifteen months journey from Constantinople. The emperor Maurice conversed with some itinerant harpers from that remote country, and only seems to have mistaken a trade for a nation. Theophylact, l. vi, c. 2.

[i] This is one of the most probable and luminous conjectures of the learned Count de Buat, (Hist. des Peuples Barbares, tom. xi, p. 546-568). The Trechi and Serbi are found together near mount Caucasus, in Illyricum, and on the Lower Elbe. Even the wildest traditions of the Bohemians, &c. afford some colour to his hypothesis.

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The eastern regions of Germany, which had been left vacant by the emigration of the Vandals, were replenished with Sclavonian colonists; the same tribes are discovered in the neighbourhood of the Adriatic and of the Baltic, and with the name of Baian himself, the Illyrian cities of Neyss and Lissa are again found in the heart of Silesia. In the disposition both of his troops and provinces, the chagan exposed the vassals, whose lives he disregarded, [k] to the first assault; and the swords of the enemy were blunted before they encountered the native valour of the Avars.

Wars of Maurice against the Avars, A. D. 595-602.

The Persian alliance restored the troops of the East to the defence of Europe; and Maurice, who had supported ten years the insolence of the chagan, declared his resolution to march in person against the barbarians. In the space of two centuries, none of the successors of Theodosius had appeared in the field, their lives were supinely spent in the palace of Constantinople; and the Greeks could no longer understand, that the name of *emperor*, in its primitive sense, denoted the chief of the armies of the republic. The martial ardour of Maurice was opposed by the grave flattery of the senate, the timid superstition of the patriarch, and the tears of the empress Constantina; and they all conjured him to devolve on some meaner general the fatigues and perils of a Scythian campaign. Deaf to their

[k] See Fredegarius, in the Historians of France, tom. ii. p. 432. Baian did not conceal his proud insensibility. Ὁτι τοιουτος (not τοιουτος, according to a foolish emendation) επιφερων τη Ρωμαϊκη, ὁς ει και συμβαιη γε σφισι θαυμαστον ουδεν, αλλ' ημει γε μη γινεσθαι συνισθασιν.

advice and entreaty, the emperor boldly advanced[l] seven miles from the capital; the sacred ensign of the cross was displayed in the front, and Maurice, reviewed with conscious pride, the arms and numbers of the veterans who had fought and conquered beyond the Tigris. Anchialus was the last term of his progress by sea and land; he solicited, without success, a miraculous answer to his nocturnal prayers; his mind was confounded by the death of a favourite horse, the encounter of a wild boar, a storm of wind and rain, and the birth of a monstrous child, and he forgot that the best of omens is to unsheath our sword in the defence of our country.[m] Under the pretence of receiving the ambassadors of Persia, the emperor returned to Constantinople, exchanged the thoughts of war for those of devotion, and disappointed the public hope, by his absence and the choice of his lieutenants. The blind partiality of fraternal love might excuse the promotion of his brother Peter, who fled with equal disgrace from the barbarians, from his own soldiers, and from the inhabitants of a Roman city. That city, if we may credit the resemblance of name and character, was the famous Azimuntium,[n] which

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[l] See the march and return of Maurice, in Theophylact, l. v, c. 16; l. vi, c. 1, 2, 3. If he were a writer of taste or genius, we might suspect him of an elegant irony: but Theophylact is surely harmless.

[m] Εἷς οἰωνὸς ἄριστος ἀμύνεσθαι περὶ πάτρης. Iliad, xii, 243. This noble verse, which unites the spirit of an hero with the reason of a sage, may prove that Homer was in every light superior to his age and country.

[n] Theophylact, l. vii, c. 3. On the evidence of this fact, which had not occurred to my memory, the candid reader will correct and

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had alone repelled the tempest of Attila. The example of her warlike youth was propagated to succeeding generations; and they obtained, from the first or the second Justin, an honourable privilege, that their valour should be always reserved for the defence of their native country. The brother of Maurice attempted to violate this privilege, and to mingle a patriot band with the mercenaries of his camp; they retired to the church, he was not awed by the sanctity of the place; the people rose in their cause, the gates were shut, the ramparts were manned; and the cowardice of Peter was found equal to his arrogance and injustice. The military fame of Commentiolus[9] is the object of satire or comedy rather than of serious history, since he was even deficient in the vile and vulgar qualification of personal courage. His solemn councils, strange evolutions, and secret orders, always supplied an apology for flight or delay. If he marched against the enemy, the pleasant valleys of Mount Hæmus opposed an insuperable barrier; but in his retreat, he explored, with fearless curiosity, the most difficult and obsolete paths, which had almost escaped the memory of the oldest native. The only blood which he lost was drawn, in a real or affected malady, by the lancet of a surgeon; and his health, which felt with exquisite sensibility the approach of the barbarians, was uniformly

excuse a note in the vith volume of this history, p. 63, which hastens the decay of Asimus, or Azimuntium: another century of patriotism and valour is cheaply purchased by such a confession.

[9] See the shameful conduct of Commentiolus, in Theophylact, l. ii, c. 10-15; l. vii, c. 13, 14; l. viii, c. 2, 4.

restored by the repose and safety of the winter season. A prince who could promote and support this unworthy favourite, must derive no glory from the accidental merit of his colleague Priscus.[p] In five successive battles, which seem to have been conducted with skill and resolution, seventeen thousand two hundred barbarians were made prisoners; near sixty thousand, with four sons of the chagan, were slain: the Roman general surprised a peaceful district of the Gepidæ, who slept under the protection of the Avars; and his last trophies were erected on the banks of the Danube and the Teyss. Since the death of Trajan, the arms of the empire had not penetrated so deeply into the old Dacia: yet the success of Priscus was transient and barren; and he was soon recalled, by the apprehension, that Baian, with dauntless spirit and recruited forces, was preparing to avenge his defeat under the walls of Constantinople.

State of the Roman armies;

The theory of war was not more familiar to the camps of Cæsar and Trajan, than to those of Justinian and Maurice.[r] The iron of Tus-

[p] See the exploits of Priscus, l. viii, c. 2, 3.

[r] The general detail of the war against the Avars, may be traced in the first, second, sixth, seventh, and eighth books of the History of the emperor Maurice, by Theophylact Simocatta. As he wrote in the reign of Heraclius, he had no temptation to flatter; but his want of judgment renders him diffuse in trifles, and concise in the most interesting facts.

[r] Maurice himself composed twelve books on the military art, which are still extant, and have been published (Upsal. 1664) by John Scheffer at the end of the Tactics of Arian, (Fabricius, Bibliot. Græc. l. iv, c. 8, tom. iii, p. 278), who promises to speak more fully of his work in its proper place.

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cany or Pontus still received the keenest temper from the skill of the Byzantine workmen. The magazines were plentifully stored with every species of offensive and defensive arms. In the construction and use of ships, engines, and fortifications, the barbarians admired the superior ingenuity of a people whom they so often vanquished in the field. The science of tactics, the order, evolutions, and stratagems of antiquity, was transcribed and studied in the books of the Greeks and Romans. But the solitude or degeneracy of the provinces could no longer supply a race of men to handle those weapons, to guard those walls, to navigate those ships, and to reduce the theory of war into bold and successful practice. The genius of Belisarius and Narses had been formed without a master, and expired without a disciple. Neither honour, nor patriotism, nor generous superstition, could animate the lifeless bodies of slaves and strangers, who had succeeded to the honours of the legions: it was in the camp alone that the emperor should have exercised a despotic command; it was only in the camps that his authority was disobeyed and insulted: he appeased and inflamed with gold the licentiousness of the troops; but their vices were inherent, their victories were accidental, and their costly maintenance exhausted the substance of a state which they were unable to defend. After a long and pernicious indulgence, the cure of this inveterate evil was undertaken by Maurice; but the rash attempt, which drew destruction on his own head, tended only to

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aggravate the disease. A reformer should be exempt from the suspicion of interest, and he must possess the confidence and esteem of those whom he proposes to reclaim. The troops of Maurice might listen to the voice of a victorious leader; they disdained the admonitions of statesmen and sophists, and when they received an edict which deducted from their pay the price of their arms and clothing, they execrated the avarice of a prince insensible of the dangers and fatigues from which he had escaped. The camps both of Asia and Europe were agitated with frequent and furious seditions;* the enraged soldiers of Edessa pursued, with reproaches, with threats, with wounds, their trembling generals: they overturned the statues of the emperor, cast stones against the miraculous image of Christ, and either rejected the yoke of all civil and military laws, or instituted a dangerous model of voluntary subordination. The monarch, always distant, and often deceived, was incapable of yielding or persisting according to the exigence of the moment. But the fear of a general revolt induced him too readily to accept any act of valour, or any expression of loyalty, as an atonement for the popular offence; the new reform was abolished as hastily as it had been announced, and the troops, instead of punishment and restraint, were agreeably surprised by a gracious proclamation of immunities and rewards. But the soldiers accepted without gratitude the tardy

their discontent,

* See the mutinies under the reign of Maurice, in Theophylact, l. iii, c. 1-4; l. vi, c. 7, 8, 10; l. vii, c. 1; l. viii, c. 6, &c.

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and reluctant gifts of the emperor; their insolence was elated by the discovery of his weakness and their own strength; and their mutual hatred was inflamed beyond the desire of forgiveness or the hope of reconciliation. The historians of the times adopt the vulgar suspicion, that Maurice conspired to destroy the troops whom he had laboured to reform; the misconduct and favour of Commentiolus are imputed to this malevolent design; and every age must condemn the inhumanity or avarice[1] of a prince, who, by the trifling ransom of six thousand pieces of gold, might have prevented the massacre of twelve thousand prisoners in the hands of the chagan. In the just fervour of indignation, an order was signified to the army of the Danube, that they should spare the magazines of the province, and establish their winter-quarters in the hostile country of the Avars. The measure of their grievances was full: they pronounced Maurice unworthy to reign, expelled or slaughtered his faithful adherents, and, under the command of Phocas, a simple centurion, returned by hasty marches to the neighbourhood of Constantinople. After a long series of legal succession, the military disorders of the third century were again revived; yet such was the novelty of the enterprise, that the insurgents were awed by their own rash-

and rebellion.

Election of Phocas, A. D. 602, October.

[1] Theophylact and Theophanes seem ignorant of the conspiracy and avarice of Maurice. These charges, so unfavourable to the memory of that emperor, are first mentioned by the author of the Paschal Chronicle, (p. 379, 380;) from whence Zonaras (tom. ii. l. xiv. p. 77, 78) has transcribed them. Cedrenus (p. 399) has followed another computation of the ransom.

ness. They hesitated to invest their favourite with the vacant purple; and while they rejected all treaty with Maurice himself, they held a friendly correspondence with his son Theodosius, and with Germanus, the father-in-law of the royal youth. So obscure had been the former condition of Phocas, that the emperor was ignorant of the name and character of his rival: but as soon as he learned, that the centurion, though bold in sedition, was timid in the face of danger, "Alas!" cried the desponding prince, "if he is a coward, he will surely be a "murderer." CHAP. XLVI.

Revolt of Constantinople.

Yet if Constantinople had been firm and faithful, the murderer might have spent his fury against the walls; and the rebel army would have been gradually consumed or reconciled by the prudence of the emperor. In the games of the circus, which he repeated with unusual pomp, Maurice disguised, with smiles of confidence, the anxiety of his heart, condescended to solicit the applause of the *factions*, and flattered their pride by accepting from their respective tribunes a list of nine hundred *blues* and fifteen hundred *greens*, whom he affected to esteem as the solid pillars of his throne. Their treacherous or languid support betrayed his weakness and hastened his fall; the green faction were the secret accomplices of the rebels, and the blues recommended lenity and moderation in a contest with their Roman brethren. The rigid and parsimonious virtues of Maurice had long since alienated the hearts of his subjects; as he walked barefoot in a religious procession, he

CHAP. XLVI. was rudely assaulted with stones, and his guards were compelled to present their iron-faces in the defence of his person. A fanatic monk ran through the streets with a drawn sword, denouncing against him the wrath and the sentence of God; and a vile plebeian, who represented his countenance and apparel, was seated on an ass, and pursued by the imprecations of the multitude.[u] The emperor suspected the popularity of Germanus with the soldiers and citizens; he feared, he threatened, but he delayed to strike; the patrician fled to the sanctuary of the church; the people rose in his defence, the walls were deserted by the guards, and the lawless city was abandoned to the flames and rapine of a nocturnal tumult. In a small bark, the unfortunate Maurice, with his wife and nine children, escaped to the Asiatic shore; but the violence of the wind compelled him to land at the church of St Autonomus,[x] near Chalcedon, from whence he dispatched Theodosius, his eldest son, to implore the gratitude and friendship of the Persian monarch. For himself, he refused to fly; his body was tortured

[u] In their clamours against Maurice, the people of Constantinople branded him with the name of Marcionite or Marcionist: a heresy, (says Theophylact, l. viii, c. 9) μετα τινος μωρας συλλαβιας, συνδης τι και καταγελαστος. Did they only cast out a vague reproach, or had the emperor really listened to some obscure teacher of those ancient Gnostics?

[x] The church of St Autonomus (whom I have not the honour to know) was 150 stadia from Constantinople, (Theophylact, l. viii, c. 9.) The port of Eutropius, where Maurice and his children were murdered, is described by Gyllius, (de Bosphoro Thracio, l. iii, c. xi), as one of the two harbours of Chalcedon.

uropatic pains,[y] his mind was enfeebled by CHAP. XLVI.
...ion; he patiently awaited the event of the revolution, and addressed a fervent and public prayer to the Almighty, that the punishment of his sins might be inflicted in this world rather than in a future life. After the abdication of Maurice, the two factions disputed the choice of an emperor; but the favourite of the blues was rejected by the jealousy of their antagonists, and Germanus himself was hurried along by the crowds, who rushed to the palace of Hebdomon, seven miles from the city, to adore the majesty of Phocas the centurion. A modest wish of resigning the purple to the rank and merit of Germanus was opposed by *his* resolution, more obstinate and equally sincere: the senate and clergy obeyed his summons, and as soon as the patriarch was assured of his orthodox belief, he consecrated the successful usurper in the church of St John the Baptist. On the third day, amidst the acclamations of a thoughtless people, Phocas made his public entry in a chariot drawn by four white horses; the revolt of the troops was rewarded by a lavish donative, and the new sovereign, after visiting the palace, beheld from his throne the games of the hippodrome. In a dispute of precedency between the two factions,

[y] The inhabitants of Constantinople were generally subject to the νοσοι αρθρητιδες; and Theophylact insinuates, (l. viii, c. 9), that if it were consistent with the rules of history, he could assign the medical cause. Yet such a digression would not have been more impertinent than his inquiry (l. vii, c. 16, 17) into the annual inundations of the Nile, and all the opinions of the Greek philosophers on that subject.

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his partial judgment inclined in favour of the greens. "Remember that Maurice [illegible] alive," resounded from the opposite side; and the indiscreet clamour of the blues admonished and stimulated the cruelty of the tyrant. The ministers of death were dispatched to Chalcedon: they dragged the emperor from his sanctuary; and the five sons of Maurice were successively murdered before the eyes of their agonizing parent. At each stroke which he felt in his heart, he found strength to rehearse a pious ejaculation,—"Thou art just, O Lord! "and thy judgments are righteous." And such, in the last moments, was his rigid attachment to truth and justice, that he revealed to the soldiers the pious falsehood of a nurse who presented her own child in the place of a royal infant.[a] The tragic scene was finally closed by the execution of the emperor himself, in the twentieth year of his reign, and the sixty-third of his age. The bodies of the father and his five sons were cast into the sea, their heads were exposed at Constantinople to the insults or pity of the multitude, and it was not till some signs of putrefaction had appeared, that Phocas connived at the private burial of these venerable remains. In that grave, the faults and errors of Maurice were kindly interred. His fate alone was remembered; and at the end of twen-

Death of Maurice and his children, A. D. 602. Nov. 27.

[a] From this generous attempt, Corneille has deduced the intricate web of his tragedy of Heraclius, which requires more than one representation to be clearly understood, (Corneille de Voltaire, tom. v, p. 300); and which, after an interval of some years, is said to have puzzled the author himself. (Anecdotes Dramatiques, tom. i, p. 422).

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in the recital of the history of Theo- the mournful tale was interrupted by the tears of the audience.[a]

Such tears must have flowed in secret; and such compassion would have been criminal, under the reign of Phocas, who was peaceably acknowledged in the provinces of the East and West. The images of the emperor and his wife Leontia were exposed in the Lateran to the veneration of the clergy and senate of Rome, and afterwards deposited in the palace of the Cæsars, between those of Constantine and Theodosius. As a subject and a Christian, it was the duty of Gregory to acquiesce in the established government, but the joyful applause with which he salutes the fortune of the assassin, has sullied with indelible disgrace the character of the saint. The successor of the apostles might have inculcated with decent firmness the guilt of blood, and the necessity of repentance: he is content to celebrate the deliverance of the people and the fall of the oppressor; to rejoice that the piety and benignity of Phocas have been raised by Providence to the imperial throne; to pray that his hands may be strengthened against all his enemies; and to express a wish, perhaps a prophecy, that after a long and triumphant reign, he may be transferred from a temporal to an everlasting kingdom.[b]

Phocas emperor, A. D. 602, Nov. 23. A. D. 610. October 4.

[a] The revolt of Phocas and death of Maurice are told by Theophylact Simocatta, (l. viii, c. 7-12); the Paschal Chronicle, (p. 379-380); Theophanes, (Chronograph. p. 238-244); Zonaras, (tom. ii, l. xiv, p. 77-80) and Cedrenus, (p. 399-404).

[b] Gregor. l. xi, epist. 38, indict. vi. Benignitatem vestræ pietatis ad imperiale fastigium pervenisse gaudemus. Lætentur cœli et ex-

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I have already traced the steps of a r[illegible] so pleasing, in Gregory's opinion, both [illegible] and earth; and Phocas does not a[illegible]pear less hateful in the exercise than in the acquisition of power. The pencil of an impartial historian has delineated the portrait of a monster; [c] his diminutive and deformed person, the closeness of his shaggy eye-brows, his red hair, his beardless chin, and his cheek disfigured and discoloured by a formidable scar. Ignorant of letters, of laws, and even of arms, he indulged in the supreme rank a more ample privilege of lust and drunkenness, and his brutal pleasures were either injurious to his subjects or disgraceful to himself. Without assuming the office of a prince, he renounced the profession of a soldier; and the reign of Phocas afflicted Europe with ignominious peace, and Asia with desolating war. His savage temper was inflamed by passion, hardened by fear, exasperated by resistance or reproach. The flight of Theodosius to the Persian court had been intercepted by a rapid pursuit, or a deceitful message: he was beheaded at Nice, and the last hours of the young prince were soothed by the comforts of religion and the consciousness of innocence. Yet his phantom disturbed the repose of the usurper: a

His character,

ultet terra, et de vestris benignis actibus universæ reipublicæ populus nunc usque vehementer afflictus hilarescat, &c. This base flattery, the topic of protestant invective, is justly censured by the philosophe Bayle, (Dictionaire Critique, Gregoire I, Not. H. tom. ii, p. 597, 598). Cardinal Baronius justifies the pope at the expence of the fallen emperor.

[c] The images of Phocas were destroyed; but even the malice of his enemies would suffer one copy of such a portrait or caricature (Cedrenus, p. 404) to escape the flames.

was circulated through the East, that CHAP. XLVI.
of Maurice was still alive: the people expected their avenger, and the widow and daughters of the late emperor would have adopted as their son and brother the vilest of mankind. In the massacre of the imperial family,[d] the mercy, or rather the discretion, of Phocas, had spared these unhappy females, and they were decently confined to a private house. But the spirit of the empress Constantina, still mindful of her father, her husband, and her sons, aspired to freedom and revenge. At the dead of night, she escaped to the sanctuary of St Sophia; but her tears, and the gold of her associate Germanus, were insufficient to provoke an insurrection. Her life was forfeited to revenge, and even to justice: but the patriarch obtained and pledged an oath for her safety; a monastery was allotted for her prison, and the widow of Maurice accepted and abused the lenity of his assassin. The discovery or the suspicion of a second conspiracy, dissolved the engagements and rekindled the fury of Phocas. A matron who commanded the respect and pity of mankind, the daughter, wife, and mother of emperors, was tortured like the vilest malefactor, to force a confession of her designs and associates; and the empress Constantina, with her three innocent daughters, was beheaded at

[d] The family of Maurice is represented by Ducange, (Familiæ Byzantinæ, p. 106, 107, 108): his eldest son Theodosius had been crowned emperor when he was no more than four years and a half old, and he is always joined with his father in the salutations of Gregory. With the Christian daughters, Anastasia and Theocteste, I am surprised to find the pagan name of Cleopatra.

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and tyranny.

Chalcedon, on the same ground which h[illegible] stained with the blood of her husband[illegible] sons. After such an example, it wou[illegible] be superfluous to enumerate the names and sufferings of meaner victims. Their condemnation was seldom preceded by the forms of trial, and their punishment was embittered by the refinements of cruelty: their eyes were pierced, their tongues were torn from the root, the hands and feet were amputated; some expired under the lash, others in the flames, others again were transfixed with arrows; and a simple speedy death was mercy which they could rarely obtain. The hippodrome, the sacred asylum of the pleasures and the liberty of the Romans, was polluted with heads and limbs and mangled bodies; and the companions of Phocas were the most sensible, that neither his favour, nor their services, could protect them from a tyrant, the worthy rival of the Caligulas and Domitians of the first age of the empire.[e]

His fall and death A. D. 610, October 4.

A daughter of Phocas, his only child, was given in marriage to the patrician Crispus,[f] and the *royal* images of the bride and bridegroom were indiscreetly placed in the circus by the side of the emperor. The father must desire that his posterity should inherit the fruit

[e] Some of the cruelties of Phocas are marked by Theophylact, l. viii, c. 13, 14, 15. George of Pisidia, the poet of Heraclius, styles him (Bell. Avaricum, p. 46; Rome, 1777) της τυραννιδος ὁ δυσκαθικτος και βιοφθορος δρακων. The latter epithet is just—but the corrupter of life was easily vanquished.

[f] In the writers, and in the copies of those writers, there is such hesitation between the names of Priscus and Crispus, (Ducange, Fam. Byzant. p. 111), that I have been tempted to identify the son-in-law of Phocas with the hero five times victorious over the Avar-

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[redacted]imes, but the monarch was offended [redacted]ematurc and popular association: the tribunes of the green faction, who accused the officious error of their sculptors, were condemned to instant death: their lives were granted to the prayers of the people; but Crispus might reasonably doubt whether a jealous usurper could forget and pardon his involuntary competition. The green faction was alienated by the ingratitude of Phocas and the loss of their privileges; every province of the empire was ripe for rebellion; and Heraclius, exarch of Africa, persisted above two years in refusing all tribute and obedience to the centurion who disgraced the throne of Constantinople. By the secret emissaries of Crispus and the senate, the independent exarch was solicited to save and to govern his country: but his ambition was chilled by age, and he resigned the dangerous enterprise to his son Heraclius, and to Nicetas, the son of Gregory his friend and lieutenant. The powers of Africa were armed by the two adventurous youths; they agreed that the one should navigate the fleet from Carthage to Constantinople, that the other should lead an army through Egypt and Asia, and that the imperial purple should be the reward of diligence and success. A faint rumour of their undertaking was conveyed to the ears of Phocas, and the wife and mother of the younger Heraclius were secured as the hostages of his faith: but the treacherous art of Crispus extenuated the distant peril, the means of defence were neglected or delayed,

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and the tyrant supinely slept till the navy cast anchor in the Hellespont. The standard was joined at Abidus by the fugitives and exiles who thirsted for revenge: the ships of Heraclius, whose lofty masts were adorned with the holy symbols of religion,[g] steered their triumphant course through the Propontis; and Phocas beheld from the windows of the palace, his approaching and inevitable fate. The green faction was tempted by gifts and promises, to oppose a feeble and fruitless resistance to the landing of the Africans; but the people, and even the guards, were determined by the well-timed defection of Crispus; and the tyrant was seized by a private enemy, who boldly invaded the solitude of the palace. Stripped of the diadem and purple, clothed in a vile habit, and loaded with chains, he was transported in a small boat to the imperial galley of Heraclius, who reproached him with the crimes of his abominable reign. "Wilt "thou govern better?" were the last words of the despair of Phocas. After suffering each variety of insult and torture, his head was severed from his body, the mangled trunk was cast into the flames, and the same treatment was inflicted on the statues of the vain usurper, and the seditious banner of the green faction. The voice of the clergy, the senate, and the

[g] According to Theophanes, κιβωτια and εικονα θεομητορος. Cedrenus adds an αχειροποιητον εικονα του κυριου, which Heraclius bore as a banner in the first Persian expedition. See George Pisid. Acroas I, 140. The manufacture seems to have flourished; but Fogini, the Roman editor, (p. 26), is at a loss to determine whether this picture was an original or a copy.

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[redacted] invited Heraclius to ascend the throne [redacted]e had purified from guilt and ignominy; after some graceful hesitation he yielded to their entreaties. His coronation was accompanied by that of his wife Eudoxia; and their posterity, till the fourth generation, continued to reign over the empire of the East. The voyage of Heraclius had been easy and prosperous, the tedious march of Nicetas was not accomplished before the decision of the contest: but he submitted without a murmur to the fortune of his friend, and his laudable intentions were rewarded with an equestrian statue, and a daughter of the emperor. It was more difficult to trust the fidelity of Crispus, whose recent services were recompensed by the command of the Cappadocian army. His arrogance soon provoked, and seemed to excuse the ingratitude of his new sovereign. In the presence of the senate, the son-in-law of Phocas was condemned to embrace the monastic life; and the sentence was justified by the weighty observation of Heraclius, that the man who had betrayed his father, could never be *faithful* to his friend. [h]

Reign of Heraclius, A. D. 610, Oct. 5. A. D. 642, Feb. 11.

Even after his death the republic was afflicted by the crimes of Phocas, which armed with a pious cause the most formidable of her enemies. According to the friendly and equal forms of the Byzantine and Persian courts, he announced his exaltation to the throne; and

Chosroes invades the Roman empire, A. D. 603, &c.

[h] See the tyranny of Phocas and the elevation of Heraclius, in Chron. Paschal. p. 380-383; Theophanes, p. 242-250; Nicephorus, p. 3-7; Cedrenus, p. 401-407; Zonaras, tom. ii, l. xiv, p. 80-87.

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his ambassador Lilius, who had presen[illegible] with the heads of Maurice and his s[illegible] the best qualified to describe the circumstances of the tragic scene.[1] However it might be varnished by fiction or sophistry, Chosroes turned with horror from the assassin, imprisoned the pretended envoy, disclaimed the usurper, and declared himself the avenger of his father and benefactor. The sentiments of grief and resentment which humanity would feel, and honour would dictate, promoted, on this occasion, the interest of the Persian king; and his interest was powerfully magnified by the national and religious prejudices of the Magi and satraps. In a strain of artful adulation, which assumed the language of freedom, they presumed to censure the excess of his gratitude and friendship for the Greeks; a nation with whom it was dangerous to conclude either peace or alliance; whose superstition was devoid of truth and justice, and who must be incapable of any virtue, since they could perpetrate the most atrocious of crimes, the impious murder of their sovereign.[k] For the crime of an ambitious centurion, the nation which he oppressed was chastised with the calamities of

[1] Theophylact, l. viii, c. 15. The life of Maurice was composed about the year 628. (l. viii, c. 1.), by Theophylact Simocatta, ex-prefect, a native of Egypt. Photius, who gives an ample extract of the work, (Cod. lxv, p. 81-100), gently reproves the affectation and allegory of the style. His preface is a dialogue between Philosophy and History; they seat themselves under a plane-tree, and the latter touches her lyre.

[k] Christianis nec pactum esse, nec fidem nec fœdus .... quod si ulla illis fides fuisset, regem suum non occidissent. Eutych. Annales, tom. ii, p. 211, vers. Pocock.

of treasd the same calamities, at the end of CHAP. XLVI.
nually years, were retaliated and redoubled on the heads of the Persians.[1] The general who had restored Chosroes to the throne still commanded in the East: and the name of Narses was the formidable sound with which the Assyrian mothers were accustomed to terrify their infants. It is not improbable, that a native subject of Persia should encourage his master and his friend to deliver and possess the provinces of Asia. It is still more probable, that Chosroes should animate his troops by the assurance that the sword which they dreaded the most would remain in its scabbard, or be drawn in their favour. The hero could not depend on the faith of a tyrant; and the tyrant was conscious how little he deserved the obedience of an hero: Narses was removed from his military command; he reared an independent standard at Hierapalis in Syria: he was betrayed by fallacious promises, and burnt alive in the market-place of Constantinople. Deprived of the only chief whom they could fear or esteem, the bands which he had led to victory were twice broken by the cavalry, trampled by the elephants, and pierced by the arrows of the barbarians; and a great number of the captives

[1] We must now, for some ages, take our leave of contemporary historians, and descend, if it be a descent, from the affectation of rhetoric to the rude simplicity of chronicles and abridgments. The Chronographia of Theophanes, (Chronograph. p. 244-279) and Nicephorus, (p. 8-16), supply a regular, but imperfect series of the Persian war; and for any additional facts I quote my special authorities. Theophanes, a courtier who became a monk, was born A. D. 748; Nicephorus, patriarch of Constantinople, who died A. D. 829, was somewhat younger: They both suffered in the cause of images. Hankius de Scriptoribus Byzantinis, p. 200-216.

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were beheaded on the field of battle by [illegible] tence of the victor, who might justly [illegible] these seditious mercenaries as the a[illegible]iors or accomplices of the death of Maurice. Under the reign of Phocas, the fortifications of Merdin, Dara, Amida, and Edessa were successively besieged, reduced, and destroyed by the Persian monarch: he passed the Euphrates, occupied the Syrian cities, Hierapolis, Chalchis, and Berrhæa or Aleppo, and soon encompassed the walls of Antioch with his irresistible arms. The rapid tide of success discloses the decay of the empire, the incapacity of Phocas, and the disaffection of his subjects; and Chosroes provided a decent apology for their submission or revolt, by an impostor who attended his camp, as the son of Maurice [m] and the lawful heir of the monarchy.

His conquest of Syria, A. D. 611.

The first intelligence from the East which Heraclius received,[n] was that of the loss of Antioch; but the aged metropolis, so often overturned by earthquakes and pillaged by the enemy, could supply but a small and languid stream

[m] The Persian historians have been themselves deceived; but Theophanes (p. 244) accuses Chosroes of the fraud and falsehood; and Eutychius believes (Annal. tom. ii, p. 211) that the son of Maurice, who was saved from the assassins, lived and died a monk on mount Sinai.

[n] Eutychius dates all the losses of the empire under the reign of Phocas, an error which saves the honour of Heraclius, whom he brings not from Carthage, but Salonica, with a fleet laden with vegetables for the relief of Constantinople, (Annal. tom. ii, p. 223, 224.) The other Christians of the East, Barhebræus, (apud Asseman, Bibliothec. Oriental. tom. iii, p. 412, 413), Elmacin, (Hist. Sarace. p. 13-16), Abulpharagius, (Dynast. p. 98, 99), are more sincere and accurate. The years of the Persian war are disposed in the chronology of Pagi.

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ure and blood. The Persians were e- ccessful and more fortunate in the sack of Caesarea, the capital of Cappadocia; and as they advanced beyond the ramparts of the frontiers, the boundary of ancient war, they found a less obstinate resistance and a more plentiful harvest. The pleasant vale of Damascus has been adorned in every age with a royal city: her obscure felicity has hitherto escaped the historian of the Roman empire: but Chosroes reposed his troops in the paradise of Damascus before he ascended the hills of Libanus, or invaded the cities of the Phenician coast. The conquest of Jerusalem,* which had been meditated by Nushirvan, was achieved by the zeal and avarice of his grandson; the ruin of the proudest monument of Christianity was vehemently urged by the intolerant spirit of the Magi; and he could inlist, for this holy warfare, an army of six and twenty thousand Jews, whose furious bigotry might compensate, in some degree, for the want of valour and discipline. After the reduction of Galilee, and the region beyond the Jordan, whose resistance appears to have delayed the fate of the capital, Jerusalem itself was taken by assault. The sepulchre of Christ, and the stately churches of Helena and Constantine, were consumed, or at least damaged, by the flames; the devout of-

of Palestine, A. D. 611;

* On the conquest of Jerusalem, an event so interesting to the church, see the Annals of Eutychius, (tom. ii. p. 212-225), and the lamentations of the monk Antiochus, (apud Baronium, Annal. Eccles. A. D. 614, N°. 16-26), whose one hundred and twenty-nine homilies are still extant, if what no one reads may be said to be extant.

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ferings of three hundred years were trifled in one sacrilegious day; the patriarch Zacharias and the *true cross*, were transported into Persia; and the massacre of ninety thousand Christians is imputed to the Jews and Arabs who swelled the disorder of the Persian march. The fugitives of Palestine were entertained at Alexandria by the charity of John the archbishop, who is distinguished among a crowd of saints by the epithet of *alms-giver:* [p] and the revenues of the church, with a treasure of three hundred thousand pounds, were restored to the true proprietors, the poor of every country and every denomination. But Egypt itself, the only province which had been exempt, since the time of Diocletian, from foreign and domestic war, was again subdued by the successors of Cyrus.

of Egypt, A. D. 616.

Pelusium, the key of that impervious country, was surprised by the cavalry of the Persians: they passed, with impunity, the innumerable channels of the Delta, and explored the long valley of the Nile, from the pyramids of Memphis to the confines of Æthiopia. Alexandria might have been relieved by a naval force, but the archbishop and the prefect embarked for Cyprus; and Chosroes entered the second city of the empire, which still preserved a wealthy remnant of industry and commerce. His western trophy was erected, not on the walls of Car-

[p] The life of this worthy saint is composed by Leontius, a contemporary bishop; and I find in Baronius, (Annal. Eccles. A. D. 610, N°. 10, &c.) and Fleury, (tom. viii, p. 235-242), sufficient extracts of this edifying work.

thage,[q] but in the neighbourhood of Tripoli: the Greek colonies of Cyrene were finally extirpated; and the conqueror, treading in the footsteps of Alexander, returned in triumph through the sands of the Lybian desert. In the first campaign, another army advanced from the Euphrates to the Thracian Bosphorus; Chalcedon surrendered after a long siege, and a Persian camp was maintained above ten years in the presence of Constantinople. The sea-coast of Pontus, the city of Ancyra, the isle of Rhodes, are enumerated among the last conquests of the great king; and if Chosroes had possessed any maritime power, his boundless ambition would have spread slavery and desolation over the provinces of Europe. CHAP. XLVI. of Asia Minor, A. D. 616, &c.

From the long disputed banks of the Tigris and Euphrates, the reign of the grandson of Nushirvan was suddenly extended to the Hellespont and the Nile, the ancient limits of the Persian monarchy. But the provinces, which had been fashioned by the habits of six hundred years to the virtues and vices of the Roman government, supported with reluctance the yoke of the barbarians. The idea of a republic was kept alive by the institutions, or at least by the writings, of the Greeks and Romans, and the subjects of Heraclius had been educated to pronounce the words of liberty and law. But it has always been the pride and policy of orien- His reign and magnificence.

[q] The error of Baronius, and many others who have carried the arms of Chosroes to Carthage instead of Chalcedon, is founded on the near resemblance of the Greek words Καλχηδονα and Καρχηδονα, in the text of Theophanes, &c. which have been sometimes confounded by transcribers and sometimes by critics.

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tal princes, to display the titles and attributes of their omnipotence; to upbraid a nation of slaves with their true name and abject condition, and to enforce, by cruel and insolent threats, the rigour of their absolute commands. The Christians of the East were scandalized by the worship of fire, and the impious doctrine of the two principles; the Magi were not less intolerant than the bishops, and the martyrdom of some native Persians, who had deserted the religion of Zoroaster,[r] was conceived to be the prelude of a fierce and general persecution. By the oppressive laws of Justinian, the adversaries of the church were made the enemies of the state; the alliance of the Jews, Nestorians, and Jacobites, had contributed to the success of Chosroes, and his partial favour to the sectaries provoked the hatred and fears of the catholic clergy. Conscious of their fear and hatred, the Persian conqueror governed his new subjects with an iron sceptre; and as if he suspected the stability of his dominion, he exhausted their wealth by exorbitant tributes and licentious rapine, despoiled or demolished the temples of the East, and transported to his hereditary realms the gold, the silver, the precious marbles, the arts, and the artists of the Asiatic cities. In the obscure picture of the calamities of the em-

[r] The genuine acts of St Anastasius are published in those of the viith general council, from whence Baronius, (Annal. Eccles. A. D. 614, 626, 627), and Butler, (Lives of the Saints, vol. i, p. 242-246), have taken their accounts. The holy martyr deserted from the Persian to the Roman army, became a monk at Jerusalem, and insulted the worship of the Magi, which was then established at Cæsarea in Palestine.

pire,[s] it is not easy to discern the figure of Chosroes himself, to separate his actions from those of his lieutenants, or to ascertain his personal merit in the general blaze of glory and magnificence. He enjoyed with ostentation the fruits of victory, and frequently retired from the hardships of war to the luxury of the palace. But in the space of twenty-four years, he was deterred by superstition or resentment from approaching the gates of Ctesiphon: and his favourite residence of Artemita, or Dastagerd, was situate beyond the Tigris, about sixty miles to the north of the capital[t]. The adjacent pastures were covered with flocks and herds: the paradise or park was replenished with pheasants, peacocks, ostriches, roebucks, and wild boars, and the noble game of lions and tigers was sometimes turned loose for the bolder pleasures of the chase. Nine hundred and sixty elephants were maintained for the use or splendour of the great king: his tents and baggage were carried into the field by twelve thousand great camels and eight thousand of a smaller size;[u] and the royal stables were filled with six thousand mules and horses, among whom the names of Shebdiz and Barid are renowned for their speed or beauty. Six thousand guards successively mounted

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[s] Abulpharagius, Dynast. p. 99. Elmacin, Hist. Saracen. p. 14.

[t] D'Anville, Mem. de l'Academie des Inscriptions, tom. xxxii, p. 568-571.

[u] The difference between the two races consists in one or two humps; the dromedary has only one; the size of the proper camel is larger; the country he comes from, Turkestan or Bactriana; the dromedary is confined to Arabia and Africa. Buffon, Hist. Naturelle, tom. xi, p. 211, &c. Aristot. Hist. Animal. tom. i, l. ii, c. 1; tom. ii, p. 185.

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before the palace-gate; the service of the interior apartments was performed by twelve thousand slaves, and in the number of three thousand virgins, the fairest of Asia, some happy concubine might console her master for the age or the indifference of Sira. The various treasures of gold, silver, gems, silk, and aromatics, were deposited in an hundred subterraneous vaults; and the chamber *Badaverd* denoted the accidental gift of the winds which had wafted the spoils of Heraclius into one of the Syrian harbours of his rival. The voice of flattery, and perhaps of fiction, is not ashamed to compute the thirty thousand rich hangings that adorned the walls, the forty thousand columns of silver, or more probably of marble, and plated wood, that supported the roof; and a thousand globes of gold suspended in the dome, to imitate the motions of the planets and the constellations of the zodiac.[x] While the Persian monarch contemplated the wonders of his art and power, he received an epistle from an obscure citizen of Mecca, inviting him to acknowledge Mahomet as the Apostle of God. He rejected the invitation, and tore the epistle. "It is thus," exclaimed the Arabian prophet, "that God will "tear the kingdom, and reject the supplica- "tions, of Chosroes."[y] Placed on the verge of

[x] Theophanes, Chronograph. p. 268. D'Herbelot, Bibliotheque Orientale, p. 997. The Greeks describe the decay, the Persians the splendour, of Dastagerd; but the former speak from the modest witness of the eye, the latter from the vague report of the ear.

[y] The historians of Mahomet, Abulfeda, (in Vit. Mohammed, p. 92, 93), and Gagnier, (Vie de Mahomet, tom. ii, p. 247), date this embassy in the viith year of the Hegira, which commences A. D.

the two great empires of the East, Mahomet observed with secret joy the progress of their mutual destruction; and in the midst of the Persian triumphs, he ventured to foretell, that before many years should elapse, victory would again return to the banners of the Romans.[z] CHAP. XLVI.

Distress of Heraclius, A. D. 610-622.

At the time when this prediction is said to have been delivered, no prophecy could be more distant from its accomplishment, since the first twelve years of Heraclius announced the approaching dissolution of the empire. If the motives of Chosroes had been pure and honourable, he must have ended the quarrel with the death of Phocas, and he would have embraced, as his best ally, the fortunate African who had so generously avenged the injuries of his benefactor Maurice. The prosecution of the war revealed the true character of the barbarian; and the suppliant embassies of Heraclius to beseech his clemency, that he would spare the innocent, accept a tribute, and give peace to the world, were rejected with contemptuous silence or insolent menace. Syria, Egypt, and the provinces of Asia, were subdued by the Persian arms, while Europe, from the

628, May 11. Their chronology is erroneous, since Chosroes died in the month of February of the same year, (Pagi, Critica, tom. ii, p. 779). The count de Boulainvilliers (Vie de Mahomed, p. 327, 328) places this embassy about A. D. 615, soon after the conquest of Palestine. Yet Mahomet would scarcely have ventured so soon on so bold a step.

[z] See the xxxth chapter of the Koran, entitled the Greeks. Our honest and learned translator Sale, (p. 330, 331), fairly states this conjecture, guess, wager, of Mahomet; but Boulainvilliers, (p. 329-344), with wicked intentions, labours to establish this evident prophecy of a future event, which must, in his opinion, embarrass the Christian polemics.

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confines of Istria to the long wall of Thrace was oppressed by the Avars, unsatiated with the blood and rapine of the Italian war. They had coolly massacred their male captives in the sacred field of Pannonia; the women and children were reduced to servitude, and the noblest virgins were abandoned to the promiscuous lust of the barbarians. The amorous matron who opened the gates of Friuli passed a short night in the arms of her royal lover; the next evening, Romilda was condemned to the embraces of twelve Avars, and the third day the Lombard princess was impaled in the sight of the camp, while the chagan observed with a cruel smile, that such a husband was the fit recompence of her lewdness and perfidy.[a] By these implacable enemies, Heraclius, on either side, was insulted and besieged: and the Roman empire was reduced to the walls of Constantinople, with the remnant of Greece, Italy, and Africa, and some maritime cities, from Tyre to Trebizond, of the Asiatic coast. After the loss of Egypt, the capital was afflicted by famine and pestilence; and the emperor, incapable of resistance, and hopeless of relief, had resolved to transfer his person and government to the more secure residence of Carthage. His ships were already laden with the treasures of the palace, but his flight was arrested by the patriarch who armed the powers of religion in the defence of his country, led Heraclius to the altar of St Sophia, and extorted a solemn oath, that he

[a] Paul Warnefrid, de Gestis Langobardorum, l. iv, c. 38, 42. Muratori, Annali d'Italia, tom. v, p. 305, &c.

would live and die with the people whom God had intrusted to his care. The chagan was encamped in the plains of Thrace, but he dissembled his perfidious designs, and solicited an interview with the emperor near the town of Heraclea. Their reconciliation was celebrated with equestrian games; the senate and people in their gayest apparel resorted to the festival of peace, and the Avars beheld, with envy and desire, the spectacle of Roman luxury. On a sudden, the hippodrome was encompassed by the Scythian cavalry, who had pressed their secret and nocturnal march: the tremendous sound of the chagan's whip gave the signal of the assault; and Heraclius, wrapping his diadem round his arm, was saved, with extreme hazard, by the fleetness of his horse. So rapid was the pursuit, that the Avars almost entered the golden gate of Constantinople with the flying crowds;[b] but the plunder of the suburbs rewarded their treason, and they transported beyond the Danube, two hundred and seventy thousand captives. On the shore of Chalcedon, the emperor held a safer conference with a more honourable foe, who, before Heraclius descended from his galley, saluted with reverence and pity the majesty of the purple. The friendly offer of Sain the Persian general, to conduct an embassy to the presence of the great king, was accepted with the warmest gratitude,

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He solicits peace.

[b] The Paschal Chronicle, which sometimes introduces fragments of history into a barren list of names and dates, gives the best account of the treason of the Avars, p. 389, 390. The number of captives is added by Nicephorus.

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and the prayer for pardon and peace was humbly presented by the prætorian prefect, the prefect of the city, and one of the first ecclesiastics of the patriarchal church.[c] But the lieutenant of Chosroes had fatally mistaken the intentions of his master. "It was not an embassy," said the tyrant of Asia, "it was the person of Heraclius, bound in chains, that he should have brought to the foot of my throne. I will never give peace to the emperor of Rome till he has abjured his crucified God, and embraced the worship of the sun." Sain was flayed alive, according to the inhuman practice of his country; and the separate and rigorous confinement of the ambassadors, violated the laws of nations and the faith of an express stipulation. Yet the experience of six years at length persuaded the Persian monarch to renounce the conquest of Constantinople, and to specify the annual tribute or ransom of the Roman empire: a thousand talents of gold, a thousand talents of silver, a thousand silk robes, a thousand horses, and a thousand virgins. Heraclius subscribed these ignominious terms, but the time and space which he obtained to collect such treasures from the poverty of the East, was industriously employed in the preparations of a bold and desperate attack.

His preparations for war. A. D. 621.

Of the characters conspicuous in history, that of Heraclius is one of the most extraordinary

[c] Some original pieces, such as the speech or letter of the Roman ambassadors, (p. 386-388), likewise constitute the merit of the Paschal Chronicle, which was composed, perhaps at Alexandria, under the reign of Heraclius.

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and inconsistent. In the first and last years of a long reign, the emperor appears to be the slave of sloth, of pleasure, or of superstition, the careless and impotent spectator of the public calamities. But the languid mists of the morning and evening are separated by the brightness of the meridian sun: the Arcadius of the palace arose the Cæsar of the camp; and the honour of Rome and Heraclius was gloriously retrieved by the exploits and trophies of six adventurous campaigns. It was the duty of the Byzantine historians to have revealed the causes of his slumber and vigilance. At this distance we can only conjecture, that he was endowed with more personal courage than political resolution: that he was detained by the charms, and perhaps the arts, of his niece Martina, with whom, after the death of Eudocia, he contracted an incestuous marriage;[d] and that he yielded to the base advice of the counsellors, who urged as a fundamental law, that the life of the emperor should never be exposed in the field.[e] Perhaps he was awakened by the last insolent demand of the Persian conqueror: but at the moment when Heraclius assumed the spirit of an hero, the only hopes of the Romans were drawn from the vicissitudes of for-

[d] Nicephorus, (p. 10, 11), who brands this marriage with the names of αθεσμον and αθεμιτον, is happy to observe, that of two sons, its incestuous fruit, the elder was marked by providence with a stiff neck, the younger with the loss of hearing.

[e] George of Pisidia, (Acroas. i, 112-125, p. 5), who states the opinions, acquits the pusillanimous counsellors of any sinister views. Would he have excused the proud and contemptuous admonition of Crispus? Επιθυπτασων ουκ εξον βασιλει φασκει καταλιμπανειν βασιλειαν και τοις σωφρων ιτιχωριαζειν δυναμεσιν.

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tune, which might threaten the proud prosperity of Chosroes, and must be favourable to those who had attained the lowest period of depression [f] To provide for the expences of war, was the first care of the emperor; and for the purpose of collecting the tribute, he was allowed to solicit the benevolence of the eastern provinces. But the revenue no longer flowed in the usual channels; the credit of an arbitrary prince is annihilated by his power; and the courage of Heraclius was first displayed in daring to borrow the consecrated wealth of churches, under the solemn vow of restoring, with usury, whatever he had been compelled to employ in the service of religion and of the empire. The clergy themselves appear to have sympathised with the public distress, and the discreet patriarch of Alexandria, without admitting the precedent of sacrilege, assisted his sovereign by the miraculous or seasonable revelation of a secret treasure. [g] Of the soldiers who had conspired with Phocas, only

Ει τας επ' ακρον ηρμενας ευιξιας
Εσφαλμενας λεγουσιν ουκ απεικοτως
Κεισθω το λοιπον εν κακοις τα Περσιδος
Αντιστροφως δε &c.

George Pisid. Acroas. i, 71, &c. p. 4. The Orientals are not less fond of remarking this strange vicissitude: and I remember some story of Khosrow Parviz, not very unlike the ring of Polycrates of Samos.

[g] Baronius gravely relates this discovery, or rather transmutation, of barrels, not of honey, but of gold, (Annal. Eccles. A. D. 620, N°. 3 &c.). Yet the loan was arbitrary, since it was collected by soldiers, who were ordered to leave the patriarch of Alexandria no more than one hundred pounds of gold. Nicephorus, (p. 11), two hundred years afterwards, speaks with ill humour of this contribution, which the church of Constantinople might still feel.

two were found to have survived the stroke of time and of the barbarians;[h] the loss, even of these seditious veterans, was imperfectly supplied by the new levies of Heraclius, and the gold of the sanctuary united in the same camp, the names, and arms, and languages, of the East and West. He would have been content with the neutrality of the Avars; and his friendly entreaty that the chagan would act, not as the enemy but as the guardian of the empire, was accompanied with a more persuasive donative of two hundred thousand pieces of gold. Two days after the festival of Easter, the emperor, exchanging his purple for the simple garb of a penitent and warrior,[i] gave the signal of his departure. To the faith of the people Heraclius recommended his children; the civil and military powers were vested in the most deserving hands, and the discretion of the patriarch and senate was authorised to save or surrender the city, if they should be oppressed in his absence by the superior forces of the enemy.

First expedition of Heraclius against the Persians, A. D. 622.

The neighbouring heights of Chalcedon were covered with tents and arms: but if the new levies of Heraclius had been rashly led to the attack, the victory of the Persians in the sight of Constantinople might have been the last day of the Roman empire. As imprudent would it have been to advance into the pro-

[h] Theophylact Simocatta, l. viii, c. 12. This circumstance need not excite our surprise. The muster-roll of a regiment, even in time of peace, is renewed in less than twenty or twenty-five years.

[i] He changed his purple, for black buskins, and dyed them red in the blood of the Persians, (Georg. Pisid. Acroas. iii, 118, 121, 122. See the Notes of Foggini, p. 35).

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vinces of Asia, leaving their innumerable cavalry to intercept his convoys, and continually to hang on the lassitude and disorder of his rear. But the Greeks were still masters of the sea; a fleet of galleys, transports, and store-ships, was assembled in the harbour; the barbarians consented to embark; a steady wind carried them through the Hellespont; the western and southern coast of Asia Minor lay on their left hand; the spirit of their chief was first displayed in a storm; and even the eunuchs of his train were excited to suffer and to work by the example of their master. He landed his troops on the confines of Syria and Cilicia, in the gulph of Scanderoon, where the coast suddenly turns to the south; [k] and his discernment was expressed in the choice of this important post. [l] From all sides, the scattered garrisons of the maritime cities and the mountains might repair with speed and safety to his imperial standard.

[k] George of Pisidia (Acroas. ii, 10, p. 8) has fixed this important point of the Syrian and Cilician gates. They are elegantly described by Xenophon, who marched through them a thousand years before. A narrow pass of three stadia between steep high rocks (πέτραι ἠλίβατοι) and the Mediterranean was closed at each end by strong gates, impregnable to the land, (παρεῖλθον ἂν οὐ βιᾳ), accessible by sea, (Anabasis, l. i, p. 35-36, with Hutchinson's Geographical Dissertation, p. vi). The gates were thirty-five parasangs, or leagues from Tarsus, (Anabasis, l. i, p. 33-34), and eight or ten from Antioch, (compare Itinerar. Wesseling p. 580-581; Schultens, Index Geograph. ad calcem Vit. Saladin. p. 9; Voyage en Turquie et en Perse, par M. Otter, tom. i, p. 78-79.)

[l] Heraclius might write to a friend in the modest words of Cicero—"Castra habuimus ea ipsa quæ contra Darium habuerat nuper "Issum Alexander, imperator haud paulo melior quam aut tu aut "ego." Ad Atticum, v. 20. Issus, a rich and flourishing city in the time of Xenophon, was ruined by the prosperity of Alexandria or Scandaroon, on the other side of the bay.

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The natural fortifications of Cilicia protected, and even concealed the camp of Heraclius, which was pitched near Issus, on the same ground where Alexander had vanquished the host of Darius. The angle which the emperor occupied, was deeply indented into a vast semicircle of the Asiatic, Armenian, and Syrian provinces; and to whatsoever point of the circumference he should direct his attack, it was easy for him to dissemble his own motions, and to prevent those of the enemy. In the camp of Issus, the Roman general reformed the sloth and disorder of the veterans, and educated the new recruits in the knowledge and practice of military virtue. Unfolding the miraculous image of Christ, he urged them to *revenge* the holy altars which had been profaned by the worshippers of fire; addressing them by the endearing appellations of sons and brethren, he deplored the public and private wrongs of the republic. The subjects of a monarch were persuaded that they fought in the cause of freedom; and a similar enthusiasm was communicated to the foreign mercenaries, who must have viewed with equal indifference the interest of Rome and of Persia. Heraclius himself, with the skill and patience of a centurion, inculcated the lessons of the school of tactics, and the soldiers were assiduously trained in the use of their weapons, and the exercises and evolutions of the field. The cavalry and infantry in light or heavy armour were divided into two parties; the trumpets were fixed in the centre, and their signals directed

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the march, the charge, the retreat, or pursuit; the direct or oblique order, the deep or extended phalanx; to represent in fictitious combat the operations of genuine war. Whatever hardship the emperor imposed on the troops, he inflicted with equal severity on himself; their labour, their diet, their sleep, were measured by the inflexible rules of discipline; and, without despising the enemy, they were taught to repose an implicit confidence in their own valour and the wisdom of their leader. Cilicia was soon encompassed with the Persian arms; but their cavalry hesitated to enter the defiles of mount Taurus, till they were circumvented by the evolutions of Heraclius, who insensibly gained their rear, whilst he appeared to present his front in order of battle. By a false motion which seemed to threaten Armenia, he drew them, against their wishes, to a general action. They were tempted by the artful disorder of his camp; but when they advanced to combat, the ground, the sun, and the expectation of both armies, were unpropitious to the barbarians; the Romans successfully repeated their tactics in a field of battle,[m] and the event of the day declared to the world, that the Persians were not invincible, and that an hero was invested with the purple. Strong in victory and fame, Heraclius boldly ascended the heights of mount Taurus, directed his

[m] Foggini (Annotat. p. 31) suspects that the Persians were deceived by the φαλαγξ στρεπλαγμενη of Ælian, (Tactic. c. 48), an intricate spiral motion of the army. He observed, (p. 28), that the military descriptions of George of Pisidia are transcribed into the Tactics of the Emperor Leo.

march through the plains of Cappadocia, and established his troops for the winter season in safe and plentiful quarters on the banks of the river Halys.[n] His soul was superior to the vanity of entertaining Constantinople with an imperfect triumph: but the presence of the emperor was indispensably required to sooth the restless and rapacious spirit of the Avars. CHAP. XLVI.

Since the days of Scipio and Hannibal, no bolder enterprise has been attempted than that which Heraclius achieved for the deliverance of the empire.[o] He permitted the Persians to oppress for a while the provinces, and to insult with impunity the capital of the East; while the Roman emperor explored his perilous way through the Black Sea,[p] and the mountains of Armenia, penetrated into the heart of Persia,[q] His second expedition, A. D. 623. 624, 625.

[n] George of Pisidia, an eye-witness, (Acroas. ii, 122, &c.), described in three acroaseis or cantos, the first expedition of Heraclius. The poem has been lately (1777) published at Rome; but such vague and declamatory praise is far from corresponding with the sanguine hopes of Pagi, D'Anville, &c.

[o] Theophanes (p. 256) carries Heraclius swiftly (κατα ταχος) into Armenia. Nicephorus, (p 11), though he confounds the two expeditions, defines the province of Lazica. Eutychius (Annal. tom. ii, p. 231) has given the 5000 men, with the more probable station of Trebizond.

[p] From Constantinople to Trebizond, with a fair wind, four or five days; from thence to Erzerom, five; to Erivan, twelve; to Tauris, ten; in all, thirty-two. Such is the Itinerary of Tavernier, (Voyages, tom. i, p. 12-56), who was perfectly conversant with the roads of Asia. Tournefort, who travelled with a pasha, spent ten or twelve days between Trebizond and Erzerom, (Voyage du Levant, tom. iii, lettre xviii); and Chardin (Voyages, tom. i, p. 249-254) gives the more correct distance of fifty-three parasangs, each of 5000 paces, (what paces?), between Erivan and Tauris.

[q] The expedition of Heraclius into Persia is finely illustrated by M. d'Anville, (Memoires de l'Academie des Inscriptions, tom. xxviii, p. 559-573). He discovers the situation of Gandzaca, Thebarma, Dastagerd, &c. with admirable skill and learning; but the obscure campaign of 624 he passes over in silence.

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and recalled the armies of the great king to the defence of their bleeding country. With a select band of five thousand soldiers, Heraclius sailed from Constantinople to Trebizond; assembled his forces which had wintered in the Pontic regions; and from the mouth of the Phasis to the Caspian sea, encouraged his subjects and allies to march with the successors of Constantine under the faithful and victorious banner of the cross. When the legions of Lucullus and Pompey first passed the Euphrates, they blushed at their easy victory over the natives of Armenia. But the long experience of war had hardened the minds and bodies of that effeminate people; their zeal and bravery were approved in the service of a declining empire; they abhorred and feared the usurpation of the house of Sassan, and the memory of persecution envenomed their pious hatred of the enemies of Christ. The limits of Armenia, as it had been ceded to the emperor Maurice, extended as far as the Araxes; the river submitted to the dignity of a bridge;[r] and Heraclius, in the footsteps of Mark Antony, advanced towards the city of Tauris or Gandzaca,[s] the ancient and

[r] Et pontem indignatus Araxes. Virgil, Æneid, viii, 728. The river Araxes is noisy, rapid, vehement, and, with the melting of the snows, irresistible; the strongest and most massy bridges are swept away by the current; and its indignation is attested by the ruins of many arches near the old town of Zulfa. Voyages de Chardin, tom. i, p. 252.

[s] Chardin, tom. i, p. 255-259. With the Orientals, (d'Herbelot, Biblioth. Orient. p. 884,) he ascribes the foundation of Tauris, or Tebris, to Zobeide, the wife of the famous khalif Haroun Alrashid; but it appears to have been more ancient; and the names of Gandzaca, Gaza, Gaza, are expressive of the royal treasure. The number of 550,000 inhabitants is reduced by Chardin from 1,100,000, the popular estimate.

modern capital of one of the provinces of Media. At the head of forty thousand men, Chosroes himself had returned from some distant expedition to oppose the progress of the Roman arms; but he retreated on the approach of Heraclius, declining the generous alternative of peace or battle. Instead of half a million of inhabitants, which have been ascribed to Tauris under the reign of the Sophys, the city contained no more than three thousand houses: but the value of the royal treasures was enhanced by a tradition, that they were the spoils of Crœsus, which had been transported by Cyrus from the citadel of Sardes. The rapid conquests of Heraclius were suspended only by the winter-season; a motive of prudence or superstition,[t] determined his retreat into the province of Albania, along the shores of the Caspian; and his tents were most probably pitched in the plains of Mogan,[u] the favourite encampment of oriental princes. In the course of this successful inroad, he signalized the zeal and revenge of a Christian emperor: at his command, the soldiers extinguished the fire, and destroyed the temples of the Magi: the statues of Chosroes, who aspired to divine ho-

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[t] He opened the gospel, and applied or interpreted the first casual passage to the name and situation of Albania. Theophanes, p. 258.

[u] The heath of Mogan, between the Cyrus and the Araxes, is sixty parasangs in length and twenty in breadth, (Olearius, p. 1023-1024), abounding in waters and fruitful pastures, (Hist. de Nader Shah, translated by Mr Jones from a Persian MS. part ii, p. 2-3). See the encampments of Timur, (Hist. par Sherefeddin Ali, l. v, c. 37; l. vi, c. 13), and the coronation of Nader Shah, (Hist. Persanne, p. 3-13, and the English Life by Mr Jones, p. 64-65).

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nours,' were abandoned to the flames; and the ruins of Thebarma or Ormia [x] which had given birth to Zoroaster himself, made some atonement for the injuries of the holy sepulchre. A purer spirit of religion was shewn in the relief and deliverance of fifty thousand captives. Heraclius was rewarded by their tears and grateful acclamations; but this wise measure, which spread the fame of his benevolence, diffused the murmurs of the Persians against the pride and obstinacy of their own sovereign.

Amidst the glories of the succeeding campaign, Heraclius is almost lost to our eyes, and to those of the Byzantine historians. [y] From the spacious and fruitful plains of Albania, the emperor appears to follow the chain of Hyrcanian mountains, to descend into the province of Media or Irak, and to carry his victorious arms as far as the royal cities of Casbin and Ispahan, which had never been approached by a Roman conqueror. Alarmed by the danger of his kingdom, the powers of Chosroes were already recalled from the Nile and the Bos-

[x] Thebarma and Ormia, near the lake Spauto, are proved to be the same city by D'Anville, (Memoires de l'Academie, tom. xxviii, p. 564, 565) It is honoured as the birth-place of Zoroaster, according to the Persians, Schultens, Index Geograph. p. 48); and their tradition is fortified by M. Perron d'Anquetil (Mem. de l'Acad. des Inscript. tom. xxxi, p. 375), with some texts from his, or their Zendavesta.

[y] I cannot find, and (what is much more), M. D'Anville does not attempt to seek, the Salban, Tarentum, territory of the Huns, &c. mentioned by Theophanes, (p. 260-262). Eutychius, (Annal. tom. ii, p. 231-232), an insufficient author, names Aspahan; and Casbin is most probably the city of Sapor. Ispahan is twenty-four days' journey from Tauris, and Casbin half way between them, (Voyages de Tavernier, tom. i, p. 63-82).

phorus, and three formidable armies surrounded, in a distant and hostile land, the camp of the emperor. The Colchian allies prepared to desert his standard; and the fears of the bravest veterans were expressed, rather than concealed, by their desponding silence. "Be not "terrified," said the intrepid Heraclius, "by "the multitude of your foes. With the aid of "Heaven, one Roman may triumph over a "thousand barbarians. But if we devote our "lives for the salvation of our brethren, we "shall obtain the crown of martyrdom, and "our immortal reward will be liberally paid "by God and posterity." These magnanimous sentiments were supported by the vigour of his actions. He repelled the threefold attack of the Persians, improved the divisions of their chiefs, and by a well-concerted train of marches, retreats, and successful actions, finally chased them from the field into the fortified cities of Media and Assyria. In the severity of the winter season, Sabaraza deemed himself secure in the walls of Salban; he was surprised by the activity of Heraclius, who divided his troops and performed a laborious march in the silence of the night. The flat roofs of the houses were defended with useless valour against the darts and torches of the Romans: the satraps and nobles of Persia, with their wives and children, and the flower of their martial youth, were either slain or made prisoners. The general escaped by a precipitate flight, but his golden armour was the prize of the conqueror; and the soldiers of Heraclius enjoyed the wealth

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and repose which they had so nobly deserved. On the return of spring, the emperor traversed in seven days the mountains of Curdistan, and passed without resistance the rapid stream of the Tigris. Oppressed by the weight of their spoils and captives, the Roman army halted under the walls of Amida; and Heraclius informed the senate of Constantinople of his safety and success, which they had already felt by the retreat of the besiegers. The bridges of the Euphrates were destroyed by the Persians; but as soon as the emperor had discovered a ford, they hastily retired to defend the banks of the Sarus,[z] in Cilicia. That river, an impetuous torrent, was about three hundred feet broad, the bridge was fortified with strong turrets, and the banks were lined with barbarian archers. After a bloody conflict, which continued till the evening, the Romans prevailed in the assault, and a Persian of gigantic size was slain and thrown into the Sarus by the hand of the emperor himself. The enemies were dispersed and dismayed; Heraclius pursued his march to Sebaste in Cappadocia; and at the expiration of three years, the same coast of the Euxine applauded his return from a long and victorious expedition.[a]

Instead of skirmishing on the frontier, the

[z] At ten parasangs from Tarsus, the army of the younger Cyrus passed the Sarus, three plethra in breadth: the Pyramus, a stadium in breadth, ran five parasangs farther to the east, (Xenophon, Anabas. l. i, p. 33-34).

[a] George of Pisidia (Bell. Abaricum, 246-265, p. 49) celebrates with truth the persevering courage of the three campaigns (τρεις περιοδους) against the Persians.

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Deliverance of Constantinople from the Persians and Avars, A. D. 626.

two monarchs who disputed the empire of the East aimed their desperate strokes at the heart of their rival. The military force of Persia was wasted by the marches and combats of twenty years, and many of the veterans who had survived the perils of the sword and the climate, were still detained in the fortresses of Egypt and Syria. But the revenge and ambition of Chosroes exhausted his kingdom; and the new levies of subjects, strangers, and slaves, were divided into three formidable bodies.[b] The first army of fifty thousand men, illustrious by the ornament and title of the *golden spears*, was destined to march against Heraclius; the second was stationed to prevent his junction with the troops of his brother Theodorus; and the third was commanded to besiege Constantinople, and to second the operations of the chagan, with whom the Persian king had ratified a treaty of alliance and partition. Sarbar, the general of the third army, penetrated through the provinces of Asia to the well-known camp of Chalcedon, and amused himself with the destruction of the sacred and profane buildings of the Asiatic suburbs, while he impatiently waited the arrival of his Scythian friends on the opposite side of the Bosphorus. On the twenty-ninth of June, thirty thousand barbarians, the vanguard of the Avars, forced the long wall, and drove into the capital a promiscuous crowd of peasants, citizens, and soldiers. Four-

[b] Petavius (Annotationes ad Nicephorum, p. 62-63-64) discriminates the names and actions of five Persian generals who were successively sent against Heraclius.

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score thousand[c] of his native subjects, and of the vassal tribes of Gepidæ, Russians, Bulgarians, and Sclavonians, advanced under the standard of the chagan: a month was spent in marches and negotiations, but the whole city was invested on the thirty-first of July, from the suburbs of Pera and Galata to the Blachernæ and seven towers; and the inhabitants descried with terror the flaming signals of the European and Asiatic shores. In the meanwhile the magistrates of Constantinople repeatedly strove to purchase the retreat of the chagan: but their deputies were rejected and insulted; and he suffered the patricians to stand before his throne, while the Persian envoys, in silk robes, were seated by his side.—"You see," said the haughty barbarian, "the "proofs of my perfect union with the great "king: and his lieutenant is ready to send in- "to my camp a select band of three thousand "warriors. Presume no longer to tempt your "master with a partial and inadequate ran- "som: your wealth and your city are the on- "ly presents worthy of my acceptance. For "yourselves, I shall permit you to depart, "each with an under-garment and a shirt; "and, at my entreaty, my friend Sarbar will "not refuse a passage through his lines. Your "absent prince, even now a captive or a fu- "gitive, has left Constantinople to its fate;

[c] This number of eight myriads is specified by George of Pisidia, (Bell. Abar. 219). The poet (50-88) clearly indicates that the old chagan lived till the reign of Heraclius, and that his son and successor was born of a foreign mother. Yet Foggini (Annotat. p. 57), has given another interpretation to this passage.

" nor can you escape the arms of the Avars CHAP. XLVI.
" and Persians, unless you could soar into the
" air like birds, unless like fishes you could
" dive into the waves." [d] During ten successive days, the capital was assaulted by the Avars, who had made some progress in the science of attack; they advanced to sap or batter the wall, under the cover of the impenetrable tortoise; their engines discharged a perpetual volley of stones and darts; and twelve lofty towers of wood exalted the combatants to the height of the neighbouring ramparts. But the senate and people were animated by the spirit of Heraclius, who had detached to their relief a body of twelve thousand cuirassiers; the powers of fire and mechanics were used with superior art and success in the defence of Constantinople; and the galleys, with two and three rank of oars, commanded the Bosphorus, and rendered the Persians the idle spectators of the defeat of their allies. The Avars were repulsed; a fleet of Sclavonian canoes was destroyed in the harbour; the vassals of the chagan threatened to desert, his provisions were exhausted, and after burning his engines, he gave the signal of a slow and formidable retreat. The devotion of the Romans ascribed this signal deliverance to the virgin Mary; but the mother of Christ

[d] A bird, a frog, a mouse, and five arrows, had been the present of the Scythian king to Darius, (Herodot. l. iv, c. 131-132). Substituez une lettre à ces signes (says Rousseau, with much good taste) plus elle sera menaçante moins elle effrayera: ce ne sera qu'une fanfaronnade, dont Darius n'eut fait que rire, (Emile, tom. iii, p. 146) Yet I much question whether the senate and people of Constantinople laughed at this message of the chagan.

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would surely have condemned their inhuman murder of the Persian envoys, who were entitled to the rights of humanity, if they were not protected by the laws of nations.[e]

Alliances and conquests of Heraclius.

After the division of his army, Heraclius prudently retired to the banks of the Phasis, from whence he maintained a defensive war against the fifty thousand gold spears of Persia. His anxiety was relieved by the deliverance of Constantinople; his hopes were confirmed by a victory of his brother Theodorus; and to the hostile league of Chosroes with the Avars, the Roman emperor opposed the useful and honourable alliance of the Turks. At his liberal invitation, the hord of Chozars[f] transported their tents from the plains of the Volga to the mountains of Georgia; Heraclius received them in the neighbourhood of Teflis, and the khan with his nobles dismounted from their horses, if we may credit the Greeks, and fell prostrate on the ground, to adore the purple of the Cæsar. Such voluntary homage and important aid were entitled to the warmest acknowledgments; and the emperor, taking off his own diadem, placed it on the head of the Turkish prince, whom he saluted with a tender embrace and

[e] The Paschal Chronicle (p. 392-397) gives a minute and authentic narrative of the siege and deliverance of Constantinople. Theophanes (p. 264) adds some circumstances; and a faint light may be obtained from the smoke of George of Pisidia, who has composed a poem (de Bello Abarico, p. 45-54) to commemorate this auspicious event.

[f] The power of the Chozars prevailed in the seventh, eighth, and ninth centuries. They were known to the Greeks, the Arabs, and, under the name of Kosa, to the Chinese themselves. De Guignes, Hist. des Huns, tom. ii, part ii, p. 507-509.

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the appellation of son. After a sumptuous banquet, he presented Ziebel with the plate and ornaments, the gold, the gems, and the silk, which had been used at the imperial table, and, with his own hand, distributed rich jewels and earrings to his new allies. In a secret interview, he produced the portrait of his daughter Eudocia,[g] condescended to flatter the barbarian with the promise of a fair and *august* bride, obtained an immediate succour of forty thousand horse, and negotiated a strong diversion of the Turkish arms on the side of the Oxus.[h] The Persians, in their turn, retreated with precipitation; in the camp of Edessa, Heraclius reviewed an army of seventy thousand Romans and strangers; and some months were successfully employed in the recovery of the cities of Syria, Mesopotamia, and Armenia, whose fortifications had been imperfectly restored. Sarbar still maintained the important station of Chalcedon; but the jealousy of Chosroes, or the artifice of Heraclius, soon alienated the mind of that powerful satrap from the service of his king and country. A messenger was intercepted with a real or fictitious mandate to the cadari-

[g] Epiphania, or Eudocia, the only daughter of Heraclius and his first wife Eudocia, was born at Constantinople on the 7th of July, A. D. 611, baptized the 15th of August, and crowned (in the oratory of St Stephen in the palace) the 4th of October of the same year. At this time she was about fifteen. Eudocia was afterwards sent to her Turkish husband, but the news of his death stopped her journey and prevented the consummation, (Ducange, Familiæ Byzantin. p. 118).

[h] Elmacin (Hist. Saracen. p. 13-16) gives some curious and probable facts: but his numbers are rather too high—300,000 Romans assembled at Edessa—500,000 Persians killed at Nineveh. The abatement of a cipher is scarcely enough to restore his sanity.

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gan, or second in command, directing him to send, without delay, to the throne, the head of a guilty or unfortunate general. The dispatches were transmitted to Sarbar himself; and as soon as he read the sentence of his own death, he dexterously inserted the names of four hundred officers, assembled a military council, and asked the *cadarigan*, whether he was prepared to execute the commands of their tyrant? The Persians unanimously declared, that Chosroes had forfeited the sceptre; a separate treaty was concluded with the government of Constantinople; and if some considerations of honour or policy restrained Sarbar from joining the standard of Heraclius, the emperor was assured, that he might prosecute, without interruption, his designs of victory and peace.

His third expedition, A. D. 627.

Deprived of his firmest support, and doubtful of the fidelity of his subjects, the greatness of Chosroes was still conspicuous in its ruins. The number of five hundred thousand may be interpreted as an oriental metaphor, to describe the men and arms, the horses and elephants, that covered Media and Assyria against the invasion of Heraclius. Yet the Romans boldly advanced from the Araxes to the Tigris, and the timid prudence of Rhazates was content to follow them by forced marches through a desolate country, till he received a peremptory mandate to risk the fate of Persia in a decisive battle. Eastward of the Tigris, at the end of the bridge of Mosal, the great Nineveh had formerly been erected:[1] the city, and even the ruins of the

[1] Ctesias (apud Diodor. Sicul. tom. i, l. ii, p. 115, edit. Wesseling, assigns 480 stadia (perhaps only 32 miles) for the circumference of

city, had long since disappeared:[k] the vacant space afforded a spacious field for the operations of the two armies. But these operations are neglected by the Byzantine historians, and, like the authors of epic poetry and romance, they ascribe the victory, not to the military conduct, but to the personal valour, of their favourite hero. On this memorable day, Heraclius, on his horse Phallus, surpassed the bravest of his warriors: his lip was pierced with a spear, the steed was wounded in the thigh, but he carried his master safe and victorious through the triple phalanx of the barbarians. In the heat of the action, three valiant chiefs were successively slain by the sword and lance of the emperor; among these was Rhazates himself; he fell like a soldier, but the sight of his head scattered grief and despair through the fainting ranks of the Persians. His armour of pure and massy gold, the shield of one hundred and twenty plates, the sword and belt, the saddle and cuirass, adorned the triumph of Heraclius, and if he had not been faithful to Christ and his mother, the champion of Rome might have offered

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and victories, December 1, &c.

Nineveh. Jonas talks of three days' journey: the 120,000 persons described by the prophet as incapable of discerning their right hand from their left, may afford about 700,000 persons of all ages for the inhabitants of that ancient capital, (Goguet, Origines des Loix, &c. tom. iii, part i, p. 98, 93) which ceased to exist 600 years before Christ. The western suburb still subsisted, and is mentioned under the name of Mosul in the first age of the Arabian khaliffs.

[k] Niebuhr (Voyage en Arabie, &c. tom. ii, p. 286) passed over Nineveh without perceiving it. He mistook for a ridge of hills the old rampart of brick or earth. It is said to have been 100 feet high, flanked with 1500 towers, each of the height of 200 feet.

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the fourth *opime* spoils to the Jupiter of the Capitol.[1] In the battle of Nineveh, which was fiercely fought from day-break to the eleventh hour, twenty-eight standards, besides those which might be broken or torn, were taken from the Persians; the greatest part of their army was cut in pieces, and the victors, concealing their own loss, passed the night on the field. They acknowledged, that on this occasion it was less difficult to kill than to discomfit the soldiers of Chosroes; amidst the bodies of their friends, no more than two bow-shot from the enemy, the remnant of the Persian cavalry stood firm till the seventh hour of the night; about the eighth hour they retired to their fortified camp, collected their baggage, and dispersed on all sides, from the want of orders rather than of resolution. The diligence of Heraclius was not less admirable in the use of victory; by a march of forty-eight miles in four and twenty hours, his vanguard occupied the bridges of the greater and the lesser Zab; and the cities and palaces of Assyria were open for the first time to the Romans. By a just gradation of magnificent scenes, they penetrated to the royal seat of Dastagerd, and though much of the treasure had been removed, and much had been expended, the remaining wealth ap-

[1] Rex regia arma fero (says Romulus, in the first consecration) . . . . bina postea (continues Livy, i, 10) inter tot bella, opima parta sunt spolia, adeo rara ejus fortuna decoris. If Varro (apud Pomp. Festum, p. 306, edit. Dacier) could justify his liberality in granting the opime spoils even to a common soldier who had slain the king or general of the enemy, the honour would have been much more cheap and common.

pears to have exceeded their hopes, and even to have satiated their avarice. Whatever could not be easily transported, they consumed with fire, that Chosroes might feel the anguish of those wounds, which he had so often inflicted on the provinces of the empire: and justice might allow the excuse, if the desolation had been confined to the works of regal luxury, if national hatred, military license, and religious zeal, had not wasted with equal rage the habitations and the temples of the guiltless subject. The recovery of three hundred Roman standards, and the deliverance of the numerous captives of Edessa and Alexandria, reflect a purer glory on the arms of Heraclius. From the palace of Dastagerd, he pursued his march within a few miles of Modain or Ctesiphon, till he was stopped, on the banks of the Arba, by the difficulty of the passage, the rigour of the season, and perhaps the fame of an impregnable capital. The return of the emperor is marked by the modern name of the city of Sherhzour; he fortunately passed mount Zara, before the snow, which fell incessantly thirty-four days, and the citizens of Gandzaca, or Tauris, were compelled to entertain his soldiers and their horses with an hospitable reception. [m] CHAP. XLVI.

When the ambition of Chosroes was reduced to the defence of his hereditary kingdom, the love of glory, or even the sense of shame, should Flight of Chosroes, A. D. 627, Dec. 29.

[m] In describing this last expedition of Heraclius, the facts, the places, and the dates of Theophanes, (p. 265-271), are so accurate and authentic that he must have followed the original letters of the emperor, of which the Paschal Chronicle has preserved (p. 398-402) a very curious specimen.

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have urged him to meet his rival in the field. In the battle of Nineveh, his courage might have taught the Persians to vanquish, or he might have fallen with honour by the lance of a Roman emperor. The successor of Cyrus chose rather, at a secure distance, to expect the event, to assemble the relics of the defeat, and to retire by measured steps before the march of Heraclius, till he beheld with a sigh the once loved mansions of Dastagerd. Both his friends and enemies were persuaded, that it was the intention of Chosroes to bury himself under the ruins of the city and palace: and as both might have been equally adverse to his flight, the monarch of Asia, with Sira, and three concubines, escaped through an hole in the wall nine days before the arrival of the Romans. The slow and stately procession in which he shewed himself to the prostrate crowd, was changed to a rapid and secret journey; and the first evening he lodged in the cottage of a peasant, whose humble door would scarcely give admittance to the great king. [n] His superstition was subdued by fear: on the third day, he entered with joy the fortifications of Ctesiphon; yet he still doubted of his safety till he had opposed the river Tigris to the pursuit of the Romans. The discovery of his flight agitated with terror and tumult the palace, the city, and the camp of Dastagerd:

[n] The words of Theophanes are remarkable: εισηλθε Χοσροης εις οικον γεωργου μεδαμινου μεινας, αχωρητους εν τη τυτθυρα, ην ιδων εσχατον Ηρακλειος εθαυμασε, p. 269. Young princes who discover a propensity to war should repeatedly transcribe and translate such salutary texts.

the satraps hesitated whether they had most to fear from their sovereign or the enemy; and the females of the haram were astonished and pleased by the sight of mankind, till the jealous husband of three thousand wives again confined them to a more distant castle. At his command, the army of Dastagerd retreated to a new camp: the front was covered by the Arba, and a line of two hundred elephants; the troops of the more distant provinces successively arrived, and the vilest domestics of the king and satraps were enrolled for the last defence of the throne. It was still in the power of Chosroes to obtain a reasonable peace; and he was repeatedly pressed by the messengers of Heraclius, to spare the blood of his subjects, and to relieve a humane conqueror from the painful duty of carrying fire and sword through the fairest countries of Asia. But the pride of the Persian had not yet sunk to the level of his fortune; he derived a momentary confidence from the retreat of the emperor; he wept with impotent rage over the ruins of his Assyrian palaces, and disregarded too long the rising murmurs of the nation, who complained that their lives and fortunes were sacrificed to the obstinacy of an old man. That unhappy old man was himself tortured with the sharpest pains both of mind and body; and, in the consciousness of his approaching end, he resolved to fix the tiara on the head of Merdaza, the most favoured of his sons. But the will of Chosroes was no longer revered, and Siroes, who gloried in the rank and merit of his mother Sira, had conspired

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with the malecontents to assert and anticipate the rights of primogeniture. [o] Twenty-two satraps, they styled themselves patriots, were tempted by the wealth and honours of a new reign: to the soldiers, the heir of Chosroes promised an increase of pay: to the Christians, the free exercise of their religion; to the captives, liberty and rewards; and to the nation, instant peace and the reduction of taxes. It was determined by the conspirators that Siroes, with the ensigns of royalty, should appear in the camp; and if the enterprise should fail, his escape was contrived to the imperial court. But the new monarch was saluted with unanimous acclamations; the flight of Chosroes (yet where could he have fled?) was rudely arrested, eighteen sons were massacred before his face, and he was thrown into a dungeon, where he expired on the fifth day. The Greeks and modern Persians minutely describe how Chosroes was insulted, and famished, and tortured, by the command of an inhuman son, who so far surpassed the example of his father: but at the time of his death, what tongue would relate the story of the parricide? what eye could penetrate into the *tower of darkness?* According to the faith and mercy of his Christian enemies, he sunk without hope into a still deeper abyss; [p]

He is deposed, A. D. 628, Feb. 25. and murdered by his son Siroes, Feb 28.

[o] The authentic narrative of the fall of Chosroes is contained in the letters of Heraclius (Chron. Paschal, p. 398) and the history of Theophanes, (p. 271).

[p] On the first rumour of the death of Chosroes, an Heraclíad in two Cantos was instantly published at Constantinople by George of Pisidia, (p. 97-105). A priest and a poet might very properly exult in the damnation of the public enemy, (ειμπιστων εν παρταρω, v, 56):

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and it will not be denied, that tyrants of every age and sect are the best entitled to such infernal abodes. The glory of the house of Sassan ended with the life of Chosroes; his unnatural son enjoyed only eight months the fruit of his crimes; and in the space of four years the regal title was assumed by nine candidates, who disputed, with the sword or dagger, the fragments of an exhausted monarchy. Every province, and each city of Persia, was the scene of independence, of discord, and of blood, and the state of anarchy prevailed about eight years longer, till the factions were silenced and united under the common yoke of the Arabian caliphs. [q]

Treaty of peace between the two empires, A.D. 628, March, &c.

As soon as the mountains became passable, the emperor received the welcome news of the success of the conspiracy, the death of Chosroes, and the elevation of his eldest son to the throne of Persia. The authors of the revolution, eager to display their merits in the court or camp of Tauris, preceded the ambassadors of Siroes, who delivered the letters of their master to his *brother* the emperor of the Romans. [r]

but such mean revenge is unworthy of a king and a conqueror; and I am sorry to find so much black superstition θεομαχος Χοσροης ὑπερ και ὑπερμαχος τισθη ὑπ; τε καταχθονια . . . ὑις το τυς ακαταστβιτον, &c.) in the letter of Heraclius: he almost applauds the parricide of Siroes as an act of piety and justice.

[q] The best oriental accounts of this last period of the Sassanian kings are found in Eutychius, (Annal. tom. ii, p. 251-256), who dissembles the parricide of Siroes; d'Herbelot, (Bibliotheque Orientale, p. 780), and Assemanni, Bibliothec. Oriental. tom. iii, p. 415-420.

[r] The letter of Siroes in the Paschal Chronicle (p. 402) unfortunately ends before he proceeds to business. The treaty appears in its execution in the histories of Theophanes and Nicephorus.

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In the language of the usurpers of every age, he imputes his own crimes to the Deity, and, without degrading his equal majesty, he offers to reconcile the long discord of the two nations, by a treaty of peace and alliance more durable than brass or iron. The conditions of the treaty were easily defined and faithfully executed. In the recovery of the standards and prisoners which had fallen into the hands of the Persians, the emperor imitated the example of Augustus: their care of the national dignity was celebrated by the poets of the times, but the decay of genius may be measured by the distance between Horace and George of Pisidia; the subjects and brethren of Heraclius were redeemed from persecution, slavery, and exile; but instead of the Roman eagles, the true wood of the holy cross was restored to the importunate demands of the successor of Constantine. The victor was not ambitious of enlarging the weakness of the empire; the son of Chosroes abandoned without regret the conquests of his father; the Persians who evacuated the cities of Syria and Egypt were honourably conducted to the frontier, and a war which had wounded the vitals of the two monarchies, produced no change in their external and relative situation. The return of Heraclius from Tauris to Constantinople was a perpetual triumph; and after the exploits of six glorious campaigns, he peaceably enjoyed the sabbath of his toils. After a long impatience, the senate, the clergy, and the people, went forth to meet their hero, with tears and acclamations,

with olive branches and innumerable lamps: he entered the capital in a chariot drawn by four elephants; and as soon as the emperor could disengage himself from the tumult of public joy, he tasted more genuine satisfaction in the embraces of his mother and his son.[s]

The succeeding year was illustrated by a triumph of a very different kind, the restitution of the true cross to the holy sepulchre. Heraclius performed in person the pilgrimage of Jerusalem, the identity of the relic was verified by the discreet patriarch,[t] and this august ceremony has been commemorated by the annual festival of the exaltation of the cross. Before the emperor presumed to tread the consecrated ground, he was instructed to strip himself of the diadem and purple, the pomp and vanity of the world: but in the judgment of his clergy, the persecution of the Jews was more easily reconciled with the precepts of the gospel. He again ascended his throne to receive the congratulations of the ambassadors of France and India: and the fame of Moses, Alexander, and Hercules,[u] was eclipsed, in the popular estima-

[s] The burden of Corneille's song,

"Montrez Heraclius au peuple qui l'attend,"

is much better suited to the present occasion. See his triumph in Theophanes (p. 272, 279) and Nicephorus, (p. 15, 16). The life of the mother and tenderness of the son are attested by George of Pisidia, (Bell. Abar. 255, &c. p. 49). The metaphor of the Sabbath is used, somewhat profanely, by these Byzantine Christians.

[t] See Baronius, (Annal. Eccles. A. D. 628, N°. 1-4); Eutychius, (Annal. tom. ii, p. 210-218); Nicephorus, (Brev. p. 15). The seals of the case had never been broken; and this preservation of the cross is ascribed (under God) to the devotion of Queen Sira.

[u] George of Pisidia, Acroas. iii, de Expedit. contra Persas, 415, &c., and Heraclid. Acroas. i, 65-138. I neglect the meaner parallels

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tion, by the superior merit and glory of the great Heraclius. Yet the deliverer of the East was indigent and feeble. Of the Persian spoils, the most valuable portion had been expended in the war, distributed to the soldiers, or buried, by an unlucky tempest, in the waves of the Euxine. The conscience of the emperor was oppressed by the obligation of restoring the wealth of the clergy, which he had borrowed for their own defence: a perpetual fund was required to satisfy these inexorable creditors; the provinces, already wasted by the arms and avarice of the Persians, were compelled to a second payment of the same taxes; and the arrears of a simple citizen, the treasurer of Damascus, were commuted to a fine of one hundred thousand pieces of gold. The loss of two hundred thousand soldiers [x] who had fallen by the sword, was of less fatal importance than the decay of arts, agriculture, and population, in this long and destructive war: and although a victorious army had been formed under the standard of Heraclius, the unnatural effort appears to have exhausted rather than exercised their strength. While the emperor triumphed at Constantinople or Jerusalem, an obscure town on the confines of Syria was pillaged by the Saracens, and they cut in pieces some troops who advanced to its relief: an ordinary and trifling oc-

of Daniel, Timotheus, &c. Chosroes and the chagan were of course compared to Belshazzar, Pharaoh, the old serpent, &c.

[x] Suidas (in Excerpt. Hist. Byzant. p. 46) gives this number; but either the Persian must be read for the Isaurian war, or this passage does not belong to the emperor Heraclius.

currence, had it not been the prelude of a mighty revolution. These robbers were the apostles of Mahomet; their fanatic valour had emerged from the desert; and in the last eight years of his reign, Heraclius lost to the Arabs the same provinces which he had rescued from the Persians.

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*Theological history of the doctrine of the incarnation—The human and divine nature of Christ—Enmity of the patriarchs of Alexandria and Constantinople—St Cyril and Nestorius—Third general council of Ephesus—Heresy of Eutyches—Fourth general council of Chalcedon—Civil and ecclesiastical discord—Intolerance of Justinian—The three chapters—the Monothelite controversy—State of the oriental sects—*I. *The Nestorians*—II. *The Jacobites*—III. *The Maronites*—IV. *The Armenians*—V. *The Copts and Abyssinians.*

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The incarnation of Christ.

AFTER the extinction of paganism, the Christians in peace and piety might have enjoyed their solitary triumph. But the principle of discord was alive in their bosom, and they were more solicitous to explore the nature, than to practise the laws, of their founder. I have already observed, that the disputes of the TRINITY were succeeded by those of the INCARNATION; alike scandalous to the church, alike pernicious to the state, still more minute in their origin, still more durable in their effects. It is my design to comprise in the present chapter, a religious war of two hundred and fifty years, to represent the ecclesiastical and political schism of the oriental sects, and to introduce

their clamours or sanguinary contests, by a modest inquiry into the doctrines of the primitive church. [a]. CHAP. XLVII.

[a] By what means shall I authenticate this previous inquiry, which I have studied to circumscribe and compress? If I persist in supporting each fact or reflection by its proper and special evidence, every line would demand a string of testimonies, and every note would swell to a critical dissertation. But the numberless passages of antiquity which I have seen with my own eyes, are compiled, digested, and illustrated, by Petavius and Le Clerc, by Beausobre and Mosheim. I shall be content to fortify my narrative by the names and characters of these respectable guides; and in the contemplation of a minute or remote object, I am not ashamed to borrow the aid of the strongest glasses.—1. The Dogmata Theologica of Petavius, is a work of incredible labour and compass; the volumes which relate solely to the incarnation, (two folios, vth and vith, of 837 pages), are divided into sixteen books—the first of history, the remainder of controversy and doctrine. The Jesuit's learning is copious and correct; his Latinity is pure, his method clear, his argument profound and well connected: but he is the slave of the fathers, the scourge of heretics, and the enemy of truth and candour, as often as they are inimical to the Catholic cause. 2. The Armenian Le Clerc, who has composed in a quarto volume, (Amsterdam 1716), the ecclesiastical history of the two first centuries, was free both in his temper and situation; his sense is clear, but his thoughts are narrow; he reduces the reason or folly of ages to the standard of his private judgment, and his impartiality is sometimes quickened, and sometimes tainted, by his opposition to the fathers. See the heretics, (Corinthians, lxxx; Ebionites, ciii; Carpocratians, cxx; Valentinians, cxxi; Basilidians, cxxiii; Marcionites, cxli, &c.), under their proper dates. 3. The *Histoire Critique du Manicheisme* (Amsterdam, 1734, 1739, in two vols. in 4to, with a posthumous dissertation sur les Nazarenes, Lausanne, 1745) of M. de Beausobre, is a treasure of ancient philosophy and theology. The learned historian spins with incomparable art the systematic thread of opinion, and transforms himself by turns into the person of a saint, a sage, or an heretic. Yet his refinement is sometimes excessive: he betrays an amiable partiality in favour of the weaker side, and, while he guards against calumny, he does not allow sufficient scope for superstition and fanaticism. A copious table of contents will direct the reader to any point that he wishes to examine. 4. Less profound than Petavius, less independent than Le Clerc, less ingenious than Beausobre, the historian Mosheim is full, rational, correct, and moderate. In his learned work, De Rebus Christianis ante Constantinum, (Helmstadt, 1753, in 4to), see the Nazarenes and Ebionites, p. 172-179, 328-332;

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I. A pure man to the Ebionites.

I. A laudable regard for the honour of the first proselytes, has countenanced the belief, the hope, the wish, that the Ebionites, or at least the Nazarenes, were distinguished only by their obstinate perseverance in the practice of the Mosaic rites. Their churches have disappeared, their books are obliterated: their obscure freedom might allow a latitude of faith, and the softness of their infant creed would be variously moulded by the zeal or prudence of three hundred years. Yet the most charitable criticism must refuse these sectaries any knowledge of the pure and proper divinity of Christ. Educated in the school of Jewish prophecy and prejudice, they had never been taught to elevate their hopes above an human and temporal Messiah.[b] If they had courage to hail their king when he appeared in a plebeian garb, their grosser apprehensions were incapable of discerning their God, who had studiously disguised his celestial character under the name and person of a mortal.[c] The familiar companions of Jesus of Nazareth conversed with their friend and countryman, who, in all the actions

the Gnostics in general, p. 179, &c.; Cerinthus, p. 196-202; Basilides, p. 352-361; Carpocrates, p. 362-367; Valentinus, p. 371-389; Marcion, p. 404-410; the Manichæans, p. 829-837, &c.

[b] Και γαρ παντες ημεις τον Χριστον ανθρωπον εξ ανθρωπων γεγονεναι γινωσκομεν, says the Jewish Tryphon, (Justin. Dialog. p. 207), in the name of his countrymen; and the modern Jews, the few who divert their thoughts from money to religion, still hold the same language, and allege the literal sense of the prophets.

[c] Chrysostom (Basnage, Hist. des Juifs, tom. v, c. 9, p. 183) and Athanasius (Petav. Dogmat. Theolog. tom. v, l. i, c. 2, p. 5) are obliged to confess that the divinity of Christ is rarely mentioned by himself or his apostles.

of rational and animal life, appeared of the same species with themselves. His progress from infancy to youth and manhood was marked by a regular increase in stature and wisdom; and after a painful agony of mind and body, he expired on the cross. He lived and died for the service of mankind; but the life and death of Socrates had likewise been devoted to the cause of religion and justice; and although the stoic or the hero may disdain the humble virtues of Jesus, the tears which he shed over his friend and country may be esteemed the purest evidence of his humanity. The miracles of the gospel could not astonish a people who held, with intrepid faith, the more splendid prodigies of the Mosaic law. The prophets of ancient days had cured diseases, raised the dead, divided the sea, stopped the sun, and ascended to heaven in a fiery chariot. And the metaphorical style of the Hebrews might ascribe to a saint and martyr, the adoptive title of SON OF GOD.

His birth and elevation.

Yet in the insufficient creed of the Nazarenes and the Ebionites, a distinction is faintly noticed between the heretics, who confounded the generation of Christ in the common order of nature, and the less guilty schismatics, who revered the virginity of his mother, and excluded the aid of an earthly father. The incredulity of the former was countenanced by the visible circumstances of his birth, the legal marriage of his reputed parents, Joseph and Mary, and his lineal claim to the kingdom of David and the inheritance of Judah. But the secret and authentic history has been recorded

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in several copies of the gospel according to St Matthew,[d] which these sectaries long preserved in the original Hebrew,[e] as the sole evidence of their faith. The natural suspicions of the husband, conscious of his own chastity, were dispelled by the assurance (in a dream) that his wife was pregnant of the Holy Ghost: and as this distant and domestic prodigy could not fall under the personal observation of the historian, he must have listened to the same voice which dictated to Isaiah the future conception of a virgin. The son of a virgin, generated by the ineffable operation of the Holy Spirit, was a creature without example or resemblance, superior in every attribute of mind and body to the children of Adam. Since the introduction of the Greek or Chaldean philosophy,[f] the Jews[g] were persuaded of the pre-

[d] The two first chapters of St Matthew did not exist in the Ebionite copies, (Epiphan. Hæres. xxx, 13); and the miraculous conception is one of the last articles which Dr Priestley has curtailed from his scanty creed.

[e] It is probable enough that the first of the gospels for the use of the Jewish converts was composed in the Hebrew or Syriac idiom; the fact is attested by a chain of fathers—Papias, Irenæus, Origen, Jerom, &c. It is devoutly believed by the catholics, and admitted by Casaubon, Grotius, and Isaac Vossius, among the protestant critics. But this Hebrew gospel of St Matthew is most unaccountably lost; and we must accuse the diligence or fidelity of the primitive churches, who have preferred the unauthorised version of some nameless Greek. Erasmus and his followers, who respect the Greek text as the original gospel, deprive themselves of the evidence which declares it to be the work of an apostle. See Simon, Hist. Critique, &c. tom. iii, c. 5-9, p. 47-101, and the Prolegomena of Mill and Wetstein to the New Testament.

[f] The metaphysics of the soul are disengaged by Cicero, (Tusculan, l. i), and Maximus of Tyre, (Dissertat. xvi), from the intricacies of dialogue, which sometimes amuse, and often perplex the readers of the Phædrus, the Phædon, and the Laws of Plato.

[g] The disciples of Jesus were persuaded that a man might have

existence, transmigration, and immortality of souls; and providence was justified by a supposition, that they were confined in their earthly prisons to expiate the stains which they had contracted in a former state.[h] But the degrees of purity and corruption are almost immeasurable. It may be fairly presumed, that the most sublime and virtuous of human spirits was infused into the offspring of Mary and the Holy Ghost;[i] that his abasement was the result of his voluntary choice; and that the object of his mission was to purify, not his own, but the sins of the world. On his return to his native skies, he received the immense reward of his obedience; the everlasting kingdom of the Messiah, which had been darkly foretold by the prophets, under the carnal images of peace, of conquest, and of dominion. Omnipotence could enlarge the human faculties of Christ to the extent of his celestial of-

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sinned before he was born, (John, ix, 2), and the Pharisees held the transmigration of virtuous souls, (Joseph. de Bell. Judaico, l. ii, c. 7); and a modern Rabbi is modestly assured, that Hermes, Pythagoras, Plato, &c. derived their metaphysics from his illustrious countrymen.

[h] Four different opinions have been entertained concerning the origin of human souls.—1. That they are eternal and divine.—2. That they were created in a separate state of existence, before their union with the body.—3. That they have been propagated from the original stock of Adam, who contained in himself the mental as well as the corporeal seed of his posterity.—4. That each soul is occasionally created and embodied in the moment of conception. The last of these sentiments appears to have prevailed among the moderns; and our spiritual history is grown less sublime, without becoming more intelligible.

[i] Ὅτι ἡ τοῦ Σωτῆρος ψυχὴ, ἡ τοῦ Ἀδὰμ ἦν—was one of the fifteen heresies imputed to Origen, and denied by his apologist, (Photius, Bibliothec. Cod. cxvii, p. 296). Some of the Rabbins attribute one and the same soul to the persons of Adam, David, and the Messiah.

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fice. In the language of antiquity, the title of God has not been severely confined to the first parent, and his incomparable minister, his only begotten Son, might claim, without presumption, the religious, though secondary worship of a subject world.

II. A pure God to the Docetes.

II. The seeds of the faith, which had slowly arisen in the rocky and ungrateful soil of Judea, were transplanted, in full maturity, to the happier climes of the Gentiles; and the strangers of Rome or Asia, who never beheld the manhood, were the more readily disposed to embrace the divinity of Christ. The polytheist and the philosopher, the Greek and the barbarian, were alike accustomed to conceive a long succession, an infinite chain of angels or demons, or deities, or æons, or emanations, issuing from the throne of light. Nor could it seem strange or incredible, that the first of these æons, the *Logos*, or word of God, of the same substance with the Father, should descend upon earth to deliver the human race from vice and error, and to conduct them in the paths of life and immortality. But the prevailing doctrine of the eternity and inherent pravity of matter infected the primitive churches of the East. Many among the gentile proselytes refused to believe that a celestial spirit, an undivided portion of the first essence, had been personally united with a mass of impure and contaminated flesh: and, in their zeal for the divinity, they piously abjured the humanity of Christ. While his blood was still recent on mount Calvary, [k] the

[k] Apostolis adhuc in seculo superstitibus, apud Judæam Christi sanguine recente, PHANTASMA domini corpus asserebatur. Hic-

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Docetes, a numerous and learned sect of Asiatics, invented the *phantastic* system, which was afterwards propagated by the Marcionites, the Manichæans and the various names of the gnostic heresy.[1] They denied the truth and authenticity of the gospels, as far as they relate the conception of Mary, the birth of Christ, and the thirty years that preceded the exercise of his ministry. He first appeared on the banks of the Jordan in the form of perfect manhood; but it was a form only, and not a substance; an human figure created by the hand of Omnipotence to imitate the faculties and actions of a man, and to impose a perpetual illusion on the senses of his friends and enemies. Articulate sounds vibrated on the ears of the disciples; but the image which was impressed on their optic nerve, eluded the more stubborn evidence of the touch; and they enjoyed the spiritual, not the corporeal presence of the Son of God. The rage of the Jews was idly wasted against an impassive phantom; and the mystic scenes of the passion and death, the resurrection and ascension of Christ, were represented on the theatre of Jerusalem for the benefit of mankind. If it were urged, that such ideal mimi-

ronym. advers. Lucifer. c. 8. The epistle of Ignatius to the Smyrnæans, and even the gospel according to St John, are levelled against the growing error of the Docetes, who had obtained too much credit in the world, (1. John iv, 1-5).

[1] About the year 200 of the Christian æra, Irenæus and Hippolytus refuted the thirty-two sects, τῆς ψευδωνύμου γνώσεως, which had multiplied to fourscore in the time of Epiphanius, (Phot. Biblioth. Cod. cxx, cxxi, cxxii). The five books of Irenæus exist only in barbarous Latin; but the original might perhaps be found in some monastery of Greece.

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cry, such incessant deception, was unworthy of the God of truth, the Docetes agreed with too many of their orthodox brethren in the justification of pious falsehood. In the system of the Gnostics, the Jehovah of Israel, the creator of this lower world, was a rebellious, or at least an ignorant spirit. The Son of God descended upon earth to abolish his temple and his law; and, for the accomplishment of this salutary end, he dexterously transferred to his own person the hope and prediction of a temporal Messiah.

His incorruptible body.

One of the most subtile disputants of the Manichæan school, has pressed the danger and indecency of supposing, that the God of the Christians, in the state of an human fœtus, emerged at the end of nine months from a female womb. The pious horror of his antagonists provoked them to disclaim all sensual circumstances of conception and delivery; to maintain, that the divinity passed through Mary like a sun-beam through a plate of glass, and to assert, that the seal of her virginity remained unbroken even at the moment when she became the mother of Christ. But the rashness of these concessions has encouraged a milder sentiment of those of the Docetes, who taught, not that Christ was a phantom, but that he was clothed with an impassable and incorruptible body. Such, indeed, in the more orthodox system he has acquired since his resurrection, and such he must always have possessed, if it were capable of pervading, without resistance or injury, the density of intermediate matter. Devoid of its most essential properties, it might be exempt from

the attributes and infirmities of the flesh. A fœtus that could increase from an invisible point to its full maturity; a child that could attain the stature of perfect manhood, without deriving any nourishment from the ordinary sources, might continue to exist without repairing a daily waste by a daily supply of external matter. Jesus might share the repasts of his disciples without being subject to the calls of thirst or hunger; and his virgin purity was never sullied by the involuntary stains of sensual concupiscence. Of a body thus singularly constituted, a question would arise, by what means, and of what materials, it was originally framed; and our sounder theology is startled by an answer which was not peculiar to the Gnostics, that both the form and the substance proceeded from the divine essence. The idea of pure and absolute spirit is a refinement of modern philosophy; the incorporeal essence, ascribed by the ancients to human souls, celestial beings, and even the Deity himself, does not exclude the notion of extended space; and their imagination was satisfied with a subtile nature of air, or fire, or ether, incomparably more perfect than the grossness of the material world. If we define the place, we must describe the figure of the Deity. Our experience, perhaps our vanity, represents the powers of reason and virtue under an human form. The Anthropomorphites, who swarmed among the monks of Egypt and the catholics of Africa, could produce the express declaration of Scripture, that man was made after the

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image of his creator.[m] The venerable Serapian, one of the saints of the Nitrian desert, relinquished, with many a tear, his darling prejudice; and bewailed, like an infant, his unlucky conversion, which had stolen away his God, and left his mind without any visible object of faith or devotion.[n]

III. Double nature of Cerinthus.

III. Such were the fleeting shadows of the Docetes. A more substantial, though less simple hypothesis, was contrived by Cerinthus of Asia,[o] who dared to oppose the last of the apostles. Placed on the confines of the Jewish and Gentile world, he laboured to reconcile the Gnostic with the Ebionite, by confessing in the

[m] The pilgrim Cassian, who visited Egypt in the beginning of the vth century, observes and laments the reign of anthropomorphism among the monks, who were not conscious that they embraced the system of Epicurus, (Cicero, de Nat. Deorum, i, 18-31). Ab universo propemodum genere monachorum, qui per totam provinciam Egyptum morabantur, pro simplicitatis errore susceptum est, ut e contrario memoratum pontificem (Theophilus) velut hæresi gravissima depravatum, pars maxima seniorum ab universo fraternitatis corpore decerneret detestandum, (Cassian, Collation, x, 2). As long as St Augustin remained a Manichean, he was scandalized by the anthropomorphism of the vulgar catholics.

[n] Ita est in oratione senex mente confusus, eo quod illam ἀνθρωπομορφον imaginem Deitatis, quam proponere sibi in oratione consueverat aboleri de suo corde sentiret, ut in amarissimos fletus, crebrosque singultus repente prorumpens, in terram prostratus, cum ejulatu validissimo proclamaret,—"Heu me miserum!" tulerunt a me Deum meum, et quem nunc teneam non habeo, vel quem adorem, aut interpellem jam nescio. Cassian, Collat. x, 2.

[o] St John and Cerinthus (A. D. 80, Cleric. Hist. Eccles. p. 493) accidentally met in the public bath of Ephesus; but the apostle fled from the heretic, lest the building should tumble on their heads. This foolish story, reprobated by Dr Middleton, (Miscellaneous Works, vol. ii,) is related however by Irenæus, (iii. 3), on the evidence of Polycarp, and was probably suited to the time and residence of Cerinthus. The obsolete, yet probably the true reading of 1 John, iv, 3—ὁ λυει τον Ιησουν—alludes to the double nature of that primitive heretic.

same Messiah the supernatural union of a man and a God: and this mystic doctrine was adopted with many fanciful improvements by Carpocrates, Basilides, and Valentine,[p] the heretics of the Egyptian school. In their eyes, JESUS of Nazareth was a mere mortal, the legitimate son of Joseph and Mary; but he was the best and wisest of the human race, selected as the worthy instrument to restore upon earth the worship of the true and supreme Deity. When he was baptized in the Jordan, the CHRIST, the first of the æons, the Son of God himself, descended on Jesus in the form of a dove, to inhabit his mind, and direct his actions during the allotted period of his ministry. When the Messiah was delivered into the hands of the Jews, the Christ, an immortal and impassible being, forsook his earthly tabernacle, flew back to the *pleroma* or world of spirits, and left the solitary Jesus to suffer, to complain, and to expire. But the justice and generosity of such a desertion are strongly questionable; and the fate of an innocent martyr, at first impelled, and at length abandoned by his divine companion might provoke the pity and indignation of the profane. Their murmurs were variously silenced by the sectaries who espoused and mo-

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[p] The Valentinians embraced a complex, and almost incoherent system.—1. Both Christ and Jesus were æons, though of different degrees; the one acting as the rational soul, the other as the divine spirit of the saviour. 2. At the time of the passion, they both retired, and left only a sensitive soul and an human body. 3. Even that body was etherial, and perhaps apparent.—Such are the laborious conclusions of Mosheim. But I much doubt whether the Latin translator understood Irenæus, and whether Irenæus and the Valentinians understood themselves.

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dified the double system of Cerinthus. It was alleged, that when Jesus was nailed to the cross, he was endowed with a miraculous apathy of mind and body, which rendered him insensible of his apparent sufferings. It was affirmed, that these momentary, though real pangs, would be abundantly repaid by the temporal reign of a thousand years, reserved for the Messiah in his kingdom of the new Jerusalem. It was insinuated, that if he suffered, he deserved to suffer; that human nature is never absolutely perfect; and that the cross and passion might serve to expiate the venial transgressions of the son of Joseph, before his mysterious union with the Son of God. [q]

IV. Divine incarnation of Apollinaris.

IV. All those who believe the immateriality of the soul, a specious and noble tenet, must confess, from their present experience, the incomprehensible union of mind and matter. A similar union is not inconsistent with a much higher, or even with the highest degree of mental faculties; and the incarnation of an æon or archangel, the most perfect of created spirits, does not involve any positive contradiction or absurdity. In the age of religious freedom, which was determined by the council of Nice, the dignity of Christ was measured by private judgment, according to the indefinite

[q] The heretics abused the passionate exclamation of "My God, "my God, why hast thou forsaken me!" Rousseau, who has drawn an eloquent, but indecent parallel between Christ and Socrates, forgets that not a word of impatience or despair escaped from the mouth of the dying philosopher. In the Messiah, such sentiments could be only apparent; and such ill-sounding words are properly explained as the application of a psalm and prophecy.

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rule of scripture, or reason, or tradition. But when his pure and proper divinity had been established on the ruins of Arianism, the faith of the catholics trembled on the edge of a precipice, where it was impossible to recede, dangerous to stand, dreadful to fall; and the manifold inconveniences of their creed were aggravated by the sublime character of their theology. They hesitated to pronounce, *that* God himself, the second person of an equal and consubstantial trinity, was manifested in the flesh;[r] *that* a being who prevades the universe, had been confined in the womb of Mary; *that* his eternal duration had been marked by the days, and months, and years, of human existence; *that* the Almighty had been scourged and crucified: *that* his impassible essence had felt pain and anguish; *that* his omniscience was not exempt from ignorance, and *that* the source of life and immortality expired on mount Calvary. These alarming consequences were affirmed with unblushing simplicity by Apollinaris,[s]

[r] This strong impression might be justified by the language of St Paul, (1 Tim. iii, 16); but we are deceived by our modern bibles. The word ὃ (which) was altered to θεὸς (God) at Constantinople in the beginning of the vith century: the true reading which is visible in the Latin and Syriac versions, still exists in the reasoning of the Greek, as well as of the Latin fathers; and this fraud, with that of the three witnesses of St John, is admirably detected by Sir Isaac Newton, (see his two letters translated by M. de Missy, in the Journal Britannique, tom. xv, p. 148-190, 351-390). I have weighed the arguments, and may yield to the authority of the first of philosophers, who was deeply skilled in critical and theological studies.

[s] For Apollinaris and his sect, see Socrates, l. ii, c. 46; *l. iii, c.* 16; Sozomen, l. v, c. 18; l. vi, c. 25-27; Theodoret, l. v, 3, 10, 11; Tillemont, Memoires Ecclesiastiques, tom. vii, p. 602-688; Not. p. 780-794, in 4to, Venise, 1732. The contemporary saints always mention the bishop of Laodicea as a friend and brother. The style

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bishop of Laodicea, and one of the luminaries of the church. The son of a learned grammarian, he was skilled in all the sciences of Greece; eloquence, erudition, and philosophy, conspicuous in the volumes of Apollinaris, were humbly devoted to the service of religion. The worthy friend of Athanasius, the worthy antagonist of Julian, he bravely wrestled with the Arians and Polytheists, and, though he affected the rigour of geometrical demonstration, his commentaries revealed the literal and allegorical sense of the scriptures. A mystery which had long floated in the looseness of popular belief, was defined by his perverse diligence in a technical form; and he first proclaimed the memorable words,—"One incarnate nature of Christ," which are still re-echoed with hostile clamours in the churches of Asia, Egypt, and Æthiopia. He taught that the Godhead was united or mingled with the body of a man; and that the *Logos*, the eternal wisdom, supplied in the flesh the place and office of an human soul. Yet as the profound doctor had been terrified at his own rashness, Apollinaris was heard to mutter some faint accents of excuse and explanation. He acquiesced in the old distinction of the Greek philosophers, between the rational and sensitive soul of man; that he might reserve the *Logos* for intellectual functions, and employ the subordinate human principle in the meaner actions of animal life. With the moderate Docetes, he revered Mary as the spiritual, rather

of the more recent historians is harsh and hostile; yet Philostorgius compares him (l. viii, c. 11-15) to Basil and Gregory.

than as the carnal mother of Christ, whose body either came from heaven, impassible and incorruptible, or was absorbed, and as it were transformed, into the essence of the Deity. The system of Apollinaris was strenuously encountered by the Asiatic and Syrian divines, whose schools are honoured by the names of Basil, Gregory, and Chrysostom, and tainted by those of Diodorus, Theodore, and Nestorius. But the person of the aged bishop of Laodicea, his character and dignity, remained inviolate, and his rivals, since we may not suspect them of the weakness of toleration, were astonished, perhaps, by the novelty of the argument, and diffident of the final sentence of the catholic church. Her judgment at length inclined in their favour; the heresy of Apollinaris was condemned, and the separate congregations of his disciples were proscribed by the imperial laws. But his principles were secretly entertained in the monasteries of Egypt, and his enemies felt the hatred of Theophilus and Cyril, the successive patriarchs of Alexandria.

V. Orthodox consent and verbal disputes.

V. The grovelling Ebionite, and the phantastic Docetes, were rejected and forgotten; the recent zeal against the errors of Apollinaris, reduced the catholics to a seeming agreement with the double nature of Cerinthus. But instead of a temporary and occasional alliance, *they* established, and *we* still embrace the substantial, indissoluble, and everlasting union of a perfect God with a perfect man, of the second person of the trinity with a reasonable soul and human flesh. In the beginning of the

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fifth century, the *unity* of the *two natures* was the prevailing doctrine of the church. On all sides, it was confessed, that the mode of their co-existence could neither be represented by our ideas, nor expressed by our language. Yet a secret and incurable discord was cherished between those who were most apprehensive of confounding, and those who were most fearful of separating the divinity, and the humanity of Christ. Impelled by religious frenzy, they fled with adverse haste from the error which they mutually deemed most destructive of truth and salvation. On either hand they were anxious to guard, they were jealous to defend the union and the distinction of the two natures, and to invent such forms of speech, such symbols of doctrine, as were least susceptible of doubt or ambiguity. The poverty of ideas and language tempted them to ransack art and nature for every possible comparison, and each comparison misled their fancy in the explanation of an incomparable mystery. In the polemic microscope, an atom is enlarged to a monster, and each party was skilful to exaggerate the absurd or impious conclusions that might be extorted from the principles of their adversaries. To escape from each other, they wandered through many a dark and devious thicket, till they were astonished by the horrid phantoms of Cerinthus and Apollinaris, who guarded the opposite issues of the theological labyrinth. As soon as they beheld the twilight of sense and heresy, they started, measured back their steps, and were again involved in the

gloom of impenetrable orthodoxy. To purge themselves from the guilt or reproach of damnable error, they disavowed their consequences, explained their principles, excused their indiscretions, and unanimously pronounced the sounds of concord and faith. Yet a latent and almost invisible spark still lurked among the embers of controversy: by the breath of prejudice and passion, it was quickly kindled to a mighty flame, and the verbal disputes[t] of the oriental sects have shaken the pillars of the church and state. CHAP. XLVII.

The name of CYRIL of Alexandria is famous in controversial story, and the title of saint is a mark that his opinions and his party have finally prevailed. In the house of his uncle, the archbishop Theophilus, he imbibed the orthodox lessons of zeal and dominion, and five years of his youth were profitably spent in the adjacent monasteries of Nitria. Under the tuition of the abbot Serapion, he applied himself to ecclesiastical studies, with such indefatigable ardour, that in the course of *one* sleepless night, he has perused the four gospels, the catholic epistles, and the epistle to the Romans. Origen he detested: but the writings of Clemens and Dionysius, of Athanasius and Basil, were

Cyril, patriarch of Alexandria, A. D. 412, Oct 18—A. D. 444, June 27.

[t] I appeal to the confession of two oriental prelates, Gregory Abulpharagius the Jacobite primate of the East, and Elias the Nestorian metropolitan of Damascus, (see Assemani Bibliothec. Orientat. tom. ii, p. 291; tom. iii, p. 514, &c.), that the Melchites, Jacobites, Nestorians, &c. agree in the doctrine, and differ only in the expression. Our most learned and rational divines—Basnage, Le Clerc, Beausobre, La Croze, Mosheim, Jablonski—are inclined to favour this charitable judgment; but the zeal of Petavius is loud and angry, and the moderation of Dupin is conveyed in a whisper.

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continually in his hands: by the theory and practice of dispute, his faith was confirmed and his wit was sharpened; he extended round his cell the cobwebs of scholastic theology, and meditated the works of allegory and metaphysics, whose remains, in seven verbose folios, now peaceably slumber by the side of their rivals. [w] Cyril prayed and fasted in the desert, but his thoughts (it is the reproach of a friend [x]) were still fixed on the world; and the call of Theophilus, who summoned him to the tumult of cities and synods, was too readily obeyed by the aspiring hermit. With the approbation of his uncle, he assumed the office, and acquired the fame of a popular preacher. His comely person adorned the pulpit, the harmony of his voice resounded in the cathedral, his friends were stationed to lead or second the applause of the congregation, [y] and the hasty notes of the scribes preserved his discourses, which in their effect, though not in their composition, might be compared with those of the Athenian orators. The death of Theophilus expanded and realized the hopes of his nephew. The

[w] La Croze (Hist. du Christianisme des Indes, tom. i, p. 24) avows his contempt for the genius and writings of Cyril. De tous les ouvrages des anciens, il y en a peu qu'on lise avec moins d'utilité: and Dupin, (Bibliotheque Ecclesiastique, tom. iv, p. 42-52), in words of respect, teaches us to despise them.

[x] Of Isidore of Pelusium, (l. i, epist. 25, p. 8). As the letter is not of the most creditable sort, Tillemont, less sincere than the Bollandists, affects a doubt whether this Cyril is the nephew of Theophilus, (Mem. Eccles. tom. xiv, p. 268).

[y] A grammarian is named by Socrates, (l. vii. 13,) διαπυρος δε ακροατης τα επισκοπα Κυριλλα καθιστω, και περι το κρατειν εν ταις διδασκαλιαις αυτα σχολην ην σπουδαιοτατος.

clergy of Alexandria was divided; the soldiers and their general supported the claims of the archdeacon; but a resistless multitude, with voices and with hands, asserted the cause of their favourite; and, after a period of thirty-nine years, Cyril was seated on the throne of Athanasius.[z] CHAP. XLVII.

His tyranny, A. D. 415, 414, 415 &c.

The prize was not unworthy of his ambition. At a distance from the court, and at the head of an immense capital, the patriarch, as he was now styled, of Alexandria had gradually usurped the state and authority of a civil magistrate. The public and private charities of the city were managed by his discretion; his voice inflamed or appeased the passions of the multitude; his commands were blindly obeyed by his numerous and fanatic *parabolani*,[a] familiarized in their daily office with scenes of death; and the prefects of Egypt were awed or provoked by the temporal power of these Christian pontiffs. Ardent in the prosecution of heresy, Cyril auspiciously opened his reign by oppressing the Novatians, the most innocent

[z] See the youth and promotion of Cyril, in Socrates (l. vii, c. 7) and Renaudot, (Hist. Patriarch. Alexandrin. p. 106-108). The Abbé Renaudot drew his materials from the Arabic history of Severus, bishop of Hermopolis Magna, or Ashmunein, in the xth century, who can never be trusted, unless our assent is extorted by the internal evidence of facts.

[a] The Parabolani of Alexandria were a charitable corporation, instituted during the plague of Gallienus, to visit the sick and to bury the dead. They gradually enlarged, abused, and sold, the privileges of their order. Their outrageous conduct under the reign of Cyril provoked the emperor to deprive the patriarch of their nomination, and restrained their number to five or six hundred. But these restraints were transient and ineffectual. See the Theodosian Code, l. xvi, tit. ii, and Tillemont, Mem. Eccles. tom. xiv, p. 276-278.

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and harmless of the sectaries. The interdiction of their religious worship appeared in his eyes a just and meritorious act; and he confiscated their holy vessels, without apprehending the guilt of sacrilege. The toleration, and even the privileges, of the Jews, who had multiplied to the number of forty thousand, were secured by the laws of the Cæsars and Ptolemies, and a long prescription of seven hundred years since the foundation of Alexandria. Without any legal sentence, without any real mandate, the patriarch, at the dawn of day, led a seditious multitude to the attack of the synagogues. Unarmed and unprepared, the Jews were incapable of resistance; their houses of prayer were levelled with the ground, and the episcopal warrior, after rewarding his troops with the plunder of their goods, expelled from the city the remnant of the unbelieving nation. Perhaps he might plead the insolence of their prosperity, and their deadly hatred of the Christians, whose blood they had recently shed in a malicious or accidental tumult. Such crimes would have deserved the animadversion of the magistrate; but in this promiscuous outrage, the innocent were confounded with the guilty, and Alexandria was impoverished by the loss of a wealthy and industrious colony. The zeal of Cyril exposed him to the penalties o the Julian law; but in a feeble government, and a superstitious age, he was secure of impunity, and even of praise. Orestes complained; but his just complaints were too quickly forgotten by

the ministers of Theodosius, and too deeply remembered by a priest who affected to pardon, and continued to hate, the prefect of Egypt. As he passed through the streets, his chariot was assaulted by a band of five hundred of the Nitrian monks; his guards fled from the wild beasts of the desert; his protestations that he was a Christian and a catholic, were answered by a volley of stones, and the face of Orestes was covered with blood. The loyal citizens of Alexandria hastened to his rescue; he instantly satisfied his justice and revenge against the monk by whose hand he had been wounded, and Ammonius expired under the rod of the lictor. At the command of Cyril, his body was raised from the ground, and transported, in solemn procession, to the Cathedral; the name of Ammonius was changed to that of Thaumasius the *wonderful;* his tomb was decorated with the trophies of martyrdom, and the patriarch ascended the pulpit to celebrate the magnanimity of an assassin and a rebel. Such honours might incite the faithful to combat and die under the banners of the saint: and he soon prompted, or accepted, the sacrifice of a virgin, who professed the religion of the Greeks, and cultivated the friendship of Orestes. Hypatia, the daughter of Theon the mathematician, [b]

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[b] For Theon, and his daughter Hypatia, see Fabricius, Bibliothec. tom. viii, p. 210, 211. Her article in the Lexicon of Suidas is curious and original. Hesychius (Meursii Opera, tom. vii, p. 295 296) observes, that she was prosecuted διὰ τὴν ὑπερβαλλουσαν σοφιαν; and an epigram in the Greek Anthology (l. i, c. 76, p. 159, edit. Brodæi) celebrates her knowledge and eloquence. She is honour-

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was initiated in her father's studies: her learned comments have elucidated the geometry of Apollonius and Diophantus, and she publicly taught, both at Athens and Alexandria, the philosophy of Plato and Aristotle. In the bloom of beauty, and in the maturity of wisdom, the modest maid refused her lovers and instructed her disciples; the persons most illustrious for their rank or merit were impatient to visit the female philosopher; and Cyril beheld, with a jealous eye, the gorgeous train of horses and slaves who crowded the door of her academy. A rumour was spread among the Christians, that the daughter of Theon was the only obstacle to the reconciliation of the prefect and the archbishop; and that obstacle was speedily removed. On a fatal day, in the holy season of Lent, Hypatia was torn from her chariot, stripped naked, dragged to the church, and inhumanly butchered by the hands of Peter the reader, and a troop of savage and merciless fanatics: her flesh was scraped from her bones with sharp oyster shells,[c] and her quivering limbs were delivered to the flames. The just progress of inquiry and punishment was stopped by seasonable gifts; but the murder of Hypatia has imprinted an indelible stain on

ably mentioned (Epist. 10, 15, 16, 33-80, 124, 135, 153) by her friend and disciple the philosophic bishop Synesius.

[c] Ὀστράκοις ἀπιλέω, καὶ μιλήδοι διασπασαντες, &c. Oyster-shells were plentifully strewed on the sea-beach before the Cæsareum. I may therefore prefer the literal sense, without rejecting the metaphorical version of tegulæ, tiles, which is used by M. de Valois. I am ignorant, and the assassins were probably regardless, whether their victim was yet alive.

the character and religion of Cyril of Alexandria.[d] CHAP. XLVII.

Superstition, perhaps, would more gently expiate the blood of a virgin, than the banishment of a saint; and Cyril had accompanied his uncle to the iniquitous synod of the oak. When the memory of Chrysostom was restored and consecrated, the nephew of Theophilus, at the head of a dying faction, still maintained the justice of his sentence; nor was it till after a tedious delay and an obstinate resistance, that he yielded to the consent of the catholic world.[e] His enmity to the Byzantine pontiffs[f] was a sense of interest, not a sally of passion: he envied their fortunate station in the sunshine of the imperial court; and he dreaded their upstart ambition, which oppressed the metropolitans of Europe and Asia, invaded the provinces of Antioch and Alexandria, and measured their diocese by the limits of the empire. The long moderation of Atticus, the mild usurper of the throne of Chrysostom, suspended the animosi- Nestorius, patriarch, of Constantinople, A. D. 428. April 10.

[d] These exploits of St Cyril are recorded by Socrates, (l. vii, c. 13, 14, 15): and the most reluctant bigotry is compelled to copy an historian who coolly styles the murderers of Hypatia ανδρες τα φερονιμα τιθεμενοι. At the mention of that injured name, I am pleased to observe a blush even on the cheek of Baronius, (A. D. 415, N°. 48).

[e] He was deaf to the entreaties of Atticus of Constantinople, and of Isidore of Pelusium, and yielded only, if we may believe Nicephorus, (l. xiv, c. 18) to the personal intercession of the Virgin. Yet in his last years he still muttered, that John Chrysostom had been justly condemned, (Tillemont, Mem. Eccles. tom. xiv, p. 278-282 Baronius, Annal. Eccles. A. D. 412, N°. 46 64).

[f] See their characters in the history of Socrates, (l. vii, c 25-28); their power and pretensions, in the huge compilation of Thomassin, (Discipline de l'Eglise, tom. i, p. 80-91).

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ties of the eastern patriarchs; but Cyril was at length awakened by the exaltation of a rival more worthy of his esteem and hatred. After the short and troubled reign of Sisinnius bishop of Constantinople, the factions of the clergy and people were appeased by the choice of the emperor, who, on this occasion, consulted the voice of fame, and invited the merit of a stranger. Nestorius,[5] a native of Germanicia, and a monk of Antioch, was recommended by the austerity of his life, and the eloquence of his sermons; but the first homily which he preached before the devout Theodosius betrayed the acrimony and impatience of his zeal. "Give me, O Cæsar!" he exclaimed, "give "me the earth purged of heretics, and I will "give you in exchange the kingdom of heaven. "Exterminate with me, the heretics; and with "you, I will exterminate the Persians." On the fifth day, as if the treaty had been already signed, the patriarch of Constantinople discovered, surprised, and attacked a secret conventicle of the Arians: they preferred death to submission; the flames that were kindled by their despair, soon spread to the neighbouring houses, and the triumph of Nestorius was clouded by the name of *incendiary*. On either side of the Hellespont, his episcopal vigour imposed a rigid formulary of faith and discipline; a chronological error concerning the festival of Easter was punished as an offence against the

[5] His elevation and conduct are described by Socrates, (l. vii, c. 29, 31); and Marcellinus seems to have applied the loquentiæ satis, sapientiæ parum, of Sallust.

church and state. Lydia and Caria, Sardes and Miletus, were purified with the blood of the obstinate Quartodecimans; and the edict of the emperor, or rather of the patriarch, enumerates three and twenty degrees and denominations in the guilt and punishment of heresy.[h] But the sword of persecution, which Nestorius so furiously wielded, was soon turned against his own breast. Religion was the pretence; but, in the judgment of a contemporary saint, ambition was the genuine motive of episcopal warfare.[i] CHAP. XLVII.

His heresy, A. D. 429-431.

In the Syrian school, Nestorius had been taught to abhor the confusion of the two natures, and nicely to discriminate the humanity of his *master* Christ from the divinity of the *Lord* Jesus.[k] The Blessed Virgin he revered as the mother of Christ, but his ears were offended with the rash and recent title of mother of God,[l] which had been insensibly adopted

[h] Cod. Theodos. l. xvi, tit. v, leg. 65, with the illustrations of Baronius, (A. D. 428, N°. 25, &c.); Godefroy, (ad locum), and Pagi, (Critica, tom. ii, p. 203).

[i] Isidore of Pelusium, (l. iv, epist. 57). His words are strong and scandalous—τι βλυμαζεις, ει και νυν περι πραγματ θειον και λογε κρειττον διαφωνειν προσποιουνται υπο φιλαρχιας ικβακχευομενοι. Isidore is a saint, but he never became a bishop; and I half suspect that the pride of Diogenes trampled on the pride of Plato.

[k] La Croze (Christianisme des Indes, tom. i, p. 44-53; Thesaurus Epistolicus La Crozianus, tom. iii, p. 276-280) has detected the use of ὁ δεσποτης, and ὁ κυριος Ιησους, which, in the fourth, fifth, and sixth centuries, discriminate the school of Diodorus of Tarsus and his Nestorian disciples.

[l] Θεοτοκος—Deipara: as in zoology we familiarly speak of oviparous and viviparous animals. It is not easy to fix the invention of this word, which La Croze (Christianisme des Indes, tom. i, p. 16) ascribes to Eusebius of Cæsarea and the Arians. The orthodox testimonies are produced by Cyril and Petavius, (Dogmat. Theolog.

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since the origin of the Arian controversy. From the pulpit of Constantinople, a friend of the patriarch, and afterwards the patriarch himself, repeatedly preached against the use or the abuse, of a word [m] unknown to the apostles, unauthorised by the church, and which could only tend to alarm the timorous, to mislead the simple, to amuse the profane, and to justify, by a seeming resemblance, the old genealogy of Olympus. [n] In his calmer moments Nestorius confessed, that it might be tolerated or excused by the union of the two natures, and the communication of their *idioms*: [o] but he was exasperated, by contradiction, to disclaim the worship of a new-born, an infant Deity, to draw his inadequate similes from the conjugal or civil partnerships of life, and to describe the man-

tom. v, l. v, c. 15, p. 254, &c.); but the veracity of the saint is questionable, and the epithet of θεοτοκος so easily slides from the margin to the text of a catholic MS.

[m] Basnage, in his Histoire de l'Eglise, a work of controversy, (tom. i, p. 505), justifies the mother, by the blood of God, (Acts, xx, 28, with Mill's various readings). But the Greek MSS. are far from unanimous; and the primitive style of the blood of Christ is preserved in the Syriac version, even in those copies which were used by the Christians of St Thomas on the coast of Malabar, (La Croze, Christianisme des Indes, tom. i, p. 347). The jealousy of the Nestorians and Monophysites has guarded the purity of their text.

[n] The pagans of Egypt already laughed at the new Cybele of the Christians, (Isidor. l. i, epist. 54); a letter was forged in the name of Hypatia, to ridicule the theology of her assassin, (Synodicon, c. 216, in iv tom. Concil. p. 481). In the article of NESTORIUS, Bayle has scattered some loose philosophy on the worship of the Virgin Mary.

[o] The αντιδοσις of the Greeks, a mutual loan or transfer of the idioms or properties of each nature to the other—of infinity to man, passibility to God, &c. Twelve rules on this nicest of subjects compose the Theological Grammar of Petavius, Dogmata Theolog. tom. v, l. iv, c. 14, 15, p. 209, &c.).

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hood of Christ as the robe, the instrument, the tabernacle of his Godhead. At these blasphemous sounds, the pillars of the sanctuary were shaken. The unsuccessful competitors of Nestorius indulged their pious or personal resentment, the Byzantine clergy was secretly displeased with the intrusion of a stranger: whatever is superstitious or absurd, might claim the protection of the monks; and the people was interested in the glory of their virgin patroness.[p] The sermons of the archbishop, and the service of the altar, were disturbed by seditious clamour; his authority and doctrine were renounced by separate congregations; every wind scattered round the empire the leaves of controversy; and the voice of the combatants on a sonorous theatre re-echoed in the cells of Palestine and Egypt. It was the duty of Cyril to enlighten the zeal and ignorance of his innumerable monks: in the school of Alexandria, he had imbibed and professed the incarnation of one nature: and the successor of Athanasius consulted his pride and ambition, when he rose in arms against another Arius, more formidable and more guilty, on the second throne of the hierarchy. After a short correspondence, in which the rival prelates disguised their hatred in the hollow language of respect and charity, the patriarch of Alexandria denounced to the prince and people, to the East and to the West, the damnable errors of the Byzantine pontiff. From the East, more especially from Antioch, he ob-

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[p] See Ducange, C. P. Christiana, l. i. p. 50, &c.

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tained the ambiguous counsels of toleration and silence, which were addressed to both parties while they favoured the cause of Nestorius. But the Vatican received with open arms the messengers of Egypt. The vanity of Celestine was flattered by the appeal; and the partial version of a monk decided the faith of the pope, who, with his Latin clergy, was ignorant of the language, the arts, and the theology of the Greeks. At the head of an Italian synod, Celestine weighed the merits of the cause, approved the creed of Cyril, condemned the sentiments and person of Nestorius, degraded the heretic from his episcopal dignity, allowed a respite of ten days for recantation and penance, and delegated to his enemy the execution of this rash and illegal sentence. But the patriarch of Alexandria, whilst he darted the thunders of a god, exposed the errors and passions of a mortal; and his twelve anathemas[q] still torture the orthodox slaves, who adore the memory of a saint, without forfeiting their allegiance to the synod of Chalcedon. These bold assertions are indelibly tinged with the colours of the Apollinarian heresy; but the serious, and perhaps the sincere, professions of Nestorius have satisfied the wiser and less partial theologians of the present times.[r]

[q] Concil. tom. iii, p. 943. They have never been directly approved by the church, (Tillemont, Mem. Eccles. tom. xiv, p. 368-372). I almost pity the agony of rage and sophistry with which Petavius seems to be agitated in the sixth book of his Dogmata Theologica.

[r] Such as the rational Basnage, (ad tom. i, Variar. Lection. Canisii in Præfat. c. ii, p. 11-28), and La Croze, the universal scholar, (Christianisme des Indes, tom. i, p. 16-20; De l'Ethiope, p. 26, 27;

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Yet neither the emperor nor the primate of the East were disposed to obey the mandate of an Italian priest; and a synod of the catholic, or rather of the Greek church, was unanimously demanded as the sole remedy that could appease or decide this ecclesiastical quarrel.[5] Ephesus, on all sides accessible by sea and land, was chosen for the place, the festival of Pentecost for the day, of the meeting; a writ of summons was dispatched to each metropolitan, and a guard was stationed to protect and confine the fathers till they should settle the mysteries of heaven, and the faith of the earth. Nestorius appeared not as a criminal, but as a judge; he depended on the weight rather than the number of his prelates, and his sturdy slaves from the baths of Zeuxippus were armed for every service of injury or defence. But his adversary Cyril was more powerful in the weapons both of the flesh and of the spirit. Disobedient to the letter, or at least to the meaning, of the royal summons, he was attended by fifty Egyptian bishops, who expected from their patriarch's nod the inspiration of the Holy Ghost.

First council of Ephesus, A. D. 431. June-October.

Thesaur. Epist. p. 176, &c. 283, .85) His free sentence is confirmed by that of his friends Jablonski (Thesaur. Epist. tom. i, p. 193-20) and Mosheim, (idem. p. 304; Nestorium crimine caruisse est et mea sententia); and three more respectable judges will not easily be found. Assemani, a learned and modest slave, can hardly discern (Bibliothec. Orient. tom. iv, p. 190-224) the guilt and error of the Nestorians.

[5] The origin and progress of the Nestorian controversy till the synod of Ephesus, may be found in Socrates, (l. vii, c. 32); Evagrius, (l. i, c. 1, 2); Liberatus (Brev. c. 1-4); the original Acts, (Concil. tom. iii, p. 551-991, edit. Venise, 1728); the Annals of Baronius and Pagi, and the faithful collections of Tillemont, (Mem. Eccles. tom. xiv, p. 283-377).

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He had contracted an intimate alliance with Memnon bishop of Ephesus. The despotic primate of Asia disposed of the ready succours of thirty or forty episcopal votes: a crowd of peasants, the slaves of the church, was poured into the city to support with blows and clamours a metaphysical argument; and the people zealously asserted the honour of the Virgin, whose body reposed within the walls of Ephesus.[t] The fleet which had transported Cyril from Alexandria, was laden with the riches of Egypt; and he disembarked a numerous body of mariners, slaves, and fanatics, inlisted with blind obedience under the banner of St Mark and the mother of God. The fathers, and even the guards, of the council were awed by this martial array; the adversaries of Cyril and Mary were insulted in the streets, or threatened in their houses; his eloquence and liberality made a daily increase in the number of his adherents; and the Egyptian soon computed that he might command the attendance and the voices of two hundred bishops.[u] But the author of the twelve anathemas foresaw and dreaded the opposition

[t] The Christians of the four first centuries were ignorant of the death and burial of Mary. The tradition of Ephesus is affirmed by the synod, (ενθα ὁ θεολογος Ιωαννης, και ἡ θεοτοκος παρθενος ἡ αγια Μαρια. Concil. tom. iii, p. 1102); yet it has been superseded by the claim of Jerusalem; and her empty sepulchre, as it was shewn to the pilgrims, produced the fable of her resurrection and assumption, in which the Greek and Latin churches have piously acquiesced. See Baronius (Annal. Eccles. A. D. 48, N°. 6, &c.) and Tillemont, (Mem. Eccles. tom. i, p. 467-477).

[u] The Acts of Chalcedon (Concil. tom. iv, p. 1405, 1408) exhibit a lively picture of the blind, obstinate servitude of the bishops of Egypt to their patriarch.

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of John of Antioch, who with a small, though respectable, train of metropolitans and divines, was advancing by slow journeys from the distant capital of the East. Impatient of a delay which he stigmatised as voluntary and culpable,[x] Cyril announced the opening of the synod sixteen days after the festival of Pentecost. Nestorius, who depended on the near approach of his eastern friends, persisted, like his predecessor Chrysostom, to disclaim the jurisdiction and to disobey the summons of his enemies: they hastened his trial, and his accuser presided in the seat of judgment. Sixty-eight bishops, twenty-two of metropolitan rank, defended his cause by a modest and temperate protest; they were excluded from the counsels of their brethren. Candidian, in the emperor's name, requested a delay of four days: the profane magistrate was driven with outrage and insult from the assembly of the saints. The whole of this momentous transaction was crowded into the compass of a summer's day; the bishops delivered their separate opinions; but the uniformity of style reveals the influence or the hand of a master, who has been accused of corrupting the public evidence of their acts and sub-

Condemnation of Nestorius, June 22.

[x] Civil or ecclesiastical business detained the bishops at Antioch, till the 18th of May. Ephesus was at the distance of thirty days' journey; and ten days more may be fairly allowed for accidents and repose. The march of Xenophon over the same ground enumerates above 260 parasangs or leagues; and this measure might be illustrated from ancient and modern itineraries, if I knew how to compare the speed of an army, a synod, and a caravan. John of Antioch is reluctantly acquitted by Tillemont himself, (Mem. Eccles. tom. xiv, p. 386-389).

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scriptions.[y] Without a dissenting voice, they recognised in the epistles of Cyril, the Nicene creed and the doctrine of the fathers: but the partial extracts from the letters and homilies of Nestorius were interrupted by curses and anathemas; and the heretic was degraded from his episcopal and ecclesiastical dignity. The sentence, maliciously inscribed to the new Judas, was affixed and proclaimed in the streets of Ephesus: the weary prelates, as they issued from the church of the mother of God, were saluted as her champions; and her victory was celebrated by the illuminations, the songs, and the tumult of the night.

Opposition of the Orientals, June 27, &c.

On the fifth day, the triumph was clouded by the arrival and indignation of the eastern bishops. In a chamber of the inn, before he had wiped the dust from his shoes, John of Antioch gave audience to Candidian the imperial minister; who related his ineffectual efforts to prevent or to annul the hasty violence of the Egyptian. With equal haste and violence, the oriental synod of fifty bishops degraded Cyril and Memnon from their episcopal honours, condemned, in the twelve anathemas, the purest venom of the Apollinarian heresy, and described the Alexandrian primate as a monster, born and educated for the destruction of the church.[z] *His* throne was distant and inacces-

[y] Μεμφομενον μη κατα το δεον τα εν Εφεσῳ συντιθηναι ὑπομνηματα παρηγοριᾳ δε και τινι αθεσμῳ καινοτομιᾳ Κυριλλω τεχναζοντος. Evagrius, l. i. c. 7. The same imputation was urged by Count Irenæus, (tom. iii, p. 1249); and the orthodox critics do not find it an easy task to defend the purity of the Greek or Latin copies of the Acts.

[z] Ὁ δε επ' ολεθρῳ των εκκλησιων τεχνης και τραφεις. After the

sible; but they instantly resolved to bestow on the flock of Ephesus the blessing of a faithful shepherd. By the vigilance of Memnon, the churches were shut against them, and a strong garrison was thrown into the cathedral. The troops, under the command of Candidian, advanced to the assault; the outguards were routed and put to the sword, but the place was impregnable: the besiegers retired; their retreat was pursued by a vigorous sally; they lost their horses, and many of the soldiers were dangerously wounded with clubs and stones. Ephesus, the city of the Virgin, was defiled with rage and clamour, with sedition and blood; the rival synods darted anathemas and excommunications from their spiritual engines; and the court of Theodosius was perplexed by the adverse and contradictory narratives of the Syrian and Egyptian factions. During a busy period of three months, the emperor tried every method, except the most effectual means of indifference and contempt, to reconcile this theological quarrel. He attempted to remove or intimidate the leaders by a common sentence of acquittal or condemnation; he invested his representatives at Ephesus with ample power and military force; he summoned from either party eight chosen deputies to a free and candid conference in the neighbourhood of the capital, far from the contagion of popular frenzy. But

coalition of John and Cyril, these invectives were mutually forgotten. The style of declamation must never be confounded with the genuine sense which respectable enemies entertain of each other's merit. (Concil. tom. iii, p. 1244).

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the Orientals refused to yield, and the Catholics, proud of their numbers and of their Latin allies, rejected all terms of union or toleration. The patience of the meek Theodosius was provoked, and he dissolved in anger this episcopal tumult, which at the distance of thirteen centuries assumes the venerable aspect of the third œcumenical council.[a] "God is my witness," said the pious prince, "that I am not the author of this confusion. His providence will "discern and punish the guilty. Return to "your provinces, and may your private virtues "repair the mischief and scandal of your meeting." They returned to their provinces; but the same passions which had distracted the synod of Ephesus were diffused over the eastern world. After three obstinate and equal campaigns, John of Antioch and Cyril of Alexandria condescended to explain and embrace: but their seeming reunion must be imputed rather to prudence than to reason, to the mutual lassitude rather than to the Christian charity of the patriarchs.

Victory of Cyril, A. D. 431-435.

The Byzantine pontiff had instilled into the royal ear a baleful prejudice against the character and conduct of his Egyptian rival. An epistle of menace and invective,[b] which accom-

[a] See the Acts of the Synod of Ephesus, in the original Greek, and a Latin version almost contemporary, (Concil. tom. iii, p. 991-1339, with the Synodicon adversus Tragœdiam Irenæi, tom. iv, p. 235-497), the Ecclesiastical Histories of Socrates, (l. vii, c. 34), and Evagrius, (l. i, c. 3, 4, 5), and the Breviary of Liberatus, (in Concil. tom. vi, p. 419-459, c. 5, 6), and the Memoires Eccles. of Tillemont, tom. xiv, p. 377-487.

[b] Ταραχην (says the emperor in pointed language) το γε εφ' εαυτω, και χωρισμον ταις εκκλησιαις εμβεβληκας . . . . ως θεασυ-

panied the summons, accused him as a busy, insolent, and envious priest, who perplexed the simplicity of the faith, violated the peace of the church and state, and, by his artful and separate addresses to the wife and sister of Theodosius, presumed to suppose, or to scatter, the seeds of discord in the imperial family. At the stern command of his sovereign, Cyril had repaired to Ephesus, where he was resisted, threatened, and confined, by the magistrates in the interest of Nestorius and the Orientals; who assembled the troops of Lydia and Ionia to suppress the fanatic and disorderly train of the patriarch. Without expecting the royal license, he escaped from his guards, precipitately embarked, deserted the imperfect synod, and retired to his episcopal fortress of safety and independence. But his artful emissaries, both in the court and city, successfully laboured to appease the resentment, and to conciliate the favour of the emperor. The feeble son of Arcadius was alternately swayed by his wife and sister, by the eunuchs and women of the palace; superstition and avarice were their ruling passions; and the orthodox chiefs were assiduous in their endeavours to alarm the former, and to gratify the latter. Constantinople and the suburbs were sanctified with frequent monasteries, and the holy abbots,

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τιρας ὁρμης πρεσβυσης μαλλον η ακριβειας . . . . και ποικιλιας μαλλον τυτων ημιν αρκυσης ηπιρ απλοτητος . . . . παντος μαλλον η ἱρεως . . τα τε των εκκλησιων, τα τε των βασιλεων μελλειν χωριζειν βυλεσθαι, ὡς υκ υσης αφορμης ἑτερας ευδοκιμησεως. I should be curious to know how much Nestorius paid for these expressions so mortifying to his rival.

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Dalmatius and Eutyches,[c] had devoted their zeal and fidelity to the cause of Cyril, the worship of Mary, and the unity of Christ. From the first moment of their monastic life, they had never mingled with the world, or trode the profane ground of the city. But in this awful moment of the danger of the church, their vow was superseded by a more sublime and indispensable duty. At the head of a long order of monks and hermits, who carried burning tapers in their hands, and chanted litanies to the mother of God, they proceeded from their monasteries to the palace. The people was edified and inflamed by this extraordinary spectacle, and the trembling monarch listened to the prayers and adjurations of the saints, who boldly pronounced, that none could hope for salvation, unless they embraced the person and the creed of the orthodox successor of Athanasius. At the same time every avenue of the throne was assaulted with gold. Under the decent names of *eulogies* and *benedictions*, the courtiers of both sexes were bribed according to the measure of their power and rapaciousness. But their incessant demands despoiled the sanctuaries of Constantinople and Alexandria; and the authority of the patriarch was unable to silence the just murmur of his clergy, that a debt of sixty thousand pounds had already been contracted to support the

[c] Eutyches, the heresiarch Eutyches, is honourably named by Cyril as a friend, a saint, and the strenuous defender of the faith. His brother, the Abbot Dalmatius, is likewise employed to bind the emperor and all his chamberlains terribili conjuratione. Synodicon, c. 205, in Concil. tom. iv, p. 167.

expence of this scandalous corruption.[d] Pulcheria, who relieved her brother from the weight of an empire, was the firmest pillar of orthodoxy: and so intimate was the alliance between the thunders of the synod and the whispers of the court, that Cyril was assured of success if he could displace one eunuch, and substitute another in the favour of Theodosius. Yet the Egyptian could not boast of a glorious or decisive victory. The emperor, with unaccustomed firmness, adhered to his promise of protecting the innocence of the oriental bishops; and Cyril softened his anathemas, and confessed, with ambiguity and reluctance, a twofold nature of Christ, before he was permitted to satiate his revenge against the unfortunate Nestorius.[e] CHAP. XLVII.

Exile of Nestorius, A. D. 435.

The rash and obstinate Nestorius, before the end of the synod, was oppressed by Cyril, betrayed by the court, and faintly supported by his eastern friends. A sentiment of fear or indignation prompted him, while it was yet time,

[d] Clerici qui hic sunt contristantur, quod ecclesia Alexandrina nudata sit hujus causa turbelæ; et debet præter illa quæ hinc transmissa sint auri libras mille quingintas. Et nunc ei scriptum est ut præstet; sed de tua ecclesia præsta avaritiæ quorum nosti, &c. This curious and original letter, from Cyril's archdeacon to his creature the new bishop of Constantinople, has been unaccountably preserved in an old Latin version, (Synodicon, c. 208; Concil. tom. iv, p. 465-468). The mask is almost dropped, and the saints speak the honest language of interest and confederacy.

[e] The tedious negociations that succeeded the synod of Ephesus are diffusely related in the original Acts, (Concil. tom. iii, p. 1339-1771, ad fin. vol. and the Synodicon, in tom. iv); Socrates, (l. vii, c. 28, 35, 40, 41); Evagrius, (l. i, c. 6, 7, 8, 12); Liberatus, (c. 7-10); Tillemont, (Mem. Eccles. tom. xiv, p. 437-670). The most patient reader will thank me for compressing so much nonsense and falsehood in a few lines.

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to affect the glory of a voluntary abdication ;[f] his wish, or at least his request, was readily granted; he was conducted with honour from Ephesus to his old monastery of Antioch ; and, after a short pause, his successors, Maximian and Proclus, were acknowledged as the lawful bishops of Constantinople. But in the silence of his cell, the degraded patriarch could no longer resume the innocence and security of a private monk. The past he regretted, he was discontented with the present, and the future he had reason to dread : the oriental bishops successively disengaged their cause from his unpopular name, and each day decreased the number of the schismatics who revered Nestorius as the confessor of the faith. After a residence at Antioch of four years, the hand of Theodosius subscribed an edict,[g] which ranked him with Simon the magician, proscribed his opinions and followers, condemned his writings to the flames, and banished his person first to Petra in Arabia, and at length to Oasis, one of the *islands* of the Libyan desert.[h] Secluded from the church and from

[f] Αυτη τε αυδεκθειντος, επιτραπη κατα το οικειον επαναζευσαι μοναστηριον. Evagrius, l. i, c. 7. The original letters in the Synodicon (c. 15, 24, 25, 26) justify the appearance of a voluntary resignation, which is asserted by Ebed-Jesu, a Nestorian writer, apud Asseman, Bibliot. Oriental. tom. iii, p 299-302.

[g] See the imperial letters in the Acts of the Synod of Ephesus, (Concil. tom. iii, p. 1730-1735). The odious name of Simonians, which was affixed to the disciples of this τεταρτωδης διδασκαλιας, was designed ως εν ουδεσι προβληθειντες αιωνιον υπομενουσιν τιμωριαν, των αμαρτηματων, και μητε ζωντας τιμωριαι, μητε θανοντας ατιμιας εκτος υπαρχειν. Yet these were Christians! who differed only in names and in shadows.

[h] The metaphor of islands is applied by the grave civilians (Pan-

the world, the exile was still pursued by the rage of bigotry and war. A wandering tribe of the Blemmyes or Nubians invaded his solatary prison; in their retreat they dismissed a crowd of useless captives; but no sooner had Nestorius reached the banks of the Nile, than he would gladly have escaped from a Roman and orthodox city to the milder servitude of the savages. His flight was punished as a new crime: the soul of the patriarch inspired the civil and ecclesiastical powers of Egypt; the magistrates, the soldiers, the monks, devoutly tortured the enemy of Christ and St Cyril; and, as far as the confines of Æthiopia, the heretic was alternately dragged and recalled, till his aged body was broken by the hardships and accidents of these reiterated journeys. Yet his mind was still independent and erect; the president of Thebais was awed by his pastoral letters; he survived the catholic tyrant of Alexandria, and, after sixteen years' banishment, the synod of Chalcedon would perhaps have restored him to the honours, or at least to the communion of the church. The death of Nestorius prevented his obedience to their welcome summons;[1] and his disease might af- CHAP. XLVII.

dect. l. xlviii, tit. 22, leg. 7) to those happy spots which are discriminated by water and verdure from the Libyan sands. Three of these under the common name of Oasis, or Alvahat.—1. The temple of Jupiter Ammon. 2. The middle Oasis, three days' journey to the west of Lycopolis. 3. The southern, where Nestorius was banished, in the first climate, and only three days' journey from the confines of Nubia. See a learned Note of Michaelis, (ad Descript. Ægypt. Abulfedæ, p 21-34).

[1] The invitation of Nestorius to the synod of Chalcedon, is related by Zacharias, bishop of Melitene, (Evagrius, l. ii, c. 2; Asse-

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ford some colour to the scandalous report, that his tongue, the organ of blasphemy, had been eaten by the worms. He was buried in a city of Upper Egypt, known by the names of Chemnis, or Panopolis, or Akmim;[k] but the immortal malice of the Jacobites has persevered for ages to cast stones against his sepulchre, and to propagate the foolish tradition, that it was never watered by the rain of heaven, which equally descends on the righteous and the ungodly.[l] Humanity may drop a tear on the fate of Nestorius; yet justice must observe, that he suffered the persecution which he had approved and inflicted.[m]

The death of the Alexandrian primate, after a reign of thirty-two years, abandoned the catholics to the intemperance of zeal, and the abuse of victory.[n] The *monophysite* doctrine

man. Bibliot. Orient. tom. ii, p. 55) and the famous Xenaias or Philoxenus, bishop of Hierapolis, (Asseman, Bibliot. Orient. tom. ii, p. 40, &c.), denied by Evagrius and Assemar, and stoutly maintained by La Croze (Thesaur. Epistol. tom. iii, p. 181, &c.) The fact is not improbable; yet it was the interest of the Monophysites to spread the invidious report; and Eutychius (tom ii, p. 12) affirms, that Nestorius died after an exile of seven years, and consequently ten years before the synod of Chalcedon.

[k] Consult d'Anville, (Memoire sur l'Egypte, p. 191); Pocock, (Description of the East, vol. i, p. 70); Abulfeda, (Descript. Egypt. p. 14), and his commentator Michaelis, (Not. p. 78 83), and the Nubian Geographer, (p. 42), who mentions, in the xiith century, the ruins and the sugar-canes of Akmim.

[l] Eutychius, (Annal. tom. ii, p. 12), and Gregory Bar-Hebræus, or Abulpharagius, (Assemar, tom. ii, p. 316), represent the credulity of the xth and xiith centuries.

[m] We are obliged to Evagrius (l. i, c. 7) for some extracts from the letters of Nestorius; but the lively picture of his sufferings is treated with insult by the hard and stupid fanatic.

[n] Dixi Cyrillum dum viveret, auctoritate sua effecisse, ne Eutychianismus et Monophysitarum error in nervum erumperet: idque

(one incarnate nature) was rigorously preached in the churches of Egypt and the monasteries of the East; the primitive creed of Apollinaris was protected by the sanctity of Cyril; and the name of Eutyches, his venerable friend, has been applied to the sect most adverse to the Syrian heresy of Nestorius. His rival Eutyches was the abbot, or archimandrite, or superior of three hundred monks; but the opinions of a simple and illiterate recluse might have expired in the cell, where he had slept above seventy years, if the resentment or indiscretion of Flavian, the Byzantine pontiff, had not exposed the scandal to the eyes of the Christian world. His domestic synod was instantly convened, their proceedings were sullied with clamour and artifice, and the aged heretic was surprised into a seeming confession, that Christ had not derived his body from the substance of the Virgin Mary. From their partial decree, Eutyches appealed to a general council; and his cause was vigorously asserted by his godson Chrysaphius, the reigning eunuch of the palace, and his accomplice Dioscorus, who had succeeded to the throne, the creed, the talents, and the vices of the nephew of Theophilus. By the special summons of Theodosius, the second synod of Ephesus was judi-

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Heresy of Eutyches, A. D. 448.

verum puto . . . aliquo . . . bone to modo παλινῳδίαν cecinerat. The learned but cautious Jablonski did not always speak the whole truth. Cum Cyrillo lenius omnino egi, quam si tecum aut cum aliis rei hujus probe gnaris et æquis rerum æstimatoribus sermones privatos conferrem, (Thesaur. Epistol. La Crozian, tom. i, p. 197-198), an excellent key to his dissertations on the Nestorian controversy!

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Second council of Ephesus, A.D. 449, Aug. 8-11.

ciously composed of ten metropolitans and ten bishops from each of the six dioceses of the eastern empire: some exceptions of favour or merit enlarged the number to one hundred and thirty-five; and the Syrian Barsumas, as the chief and representative of the monks, was invited to sit and vote with the successors of the apostles. But the despotism of the Alexandrian patriarch again oppressed the freedom of debate: the same spiritual and carnal weapons were again drawn from the arsenals of Egypt; the Asiatic veterans, a band of archers, served under the orders of Dioscorus; and the more formidable monks, whose minds were inaccessible to reason or mercy, besieged the doors of the cathedral. The general, and, it should seem, the unconstrained voice of the fathers, accepted the faith and even the anathemas of Cyril; and the heresy of the two natures was formally condemned in the persons and writings of the most learned Orientals. "May "those who divide Christ be divided with the "sword, may they be hewn in pieces, may they "be burnt alive!" were the charitable wishes of a Christian synod.[o] The innocence and sanctity of Eutyches were acknowledged without hesitation: but the prelates, more especially those of Thrace and Asia, were unwill-

[o] Η ἁγια συνοδος ειπεν αρον, καυσον Ευσεβιον, ὁτος ζων καη ϐτος εις δυο γενηται. ὡς εμερισε μερισθη . . . ει τις λεγει δυο αναθεμα. At the request of Dioscorus, those who were not able to roar (ϐοησαι), stretched out their hands. At Chalcedon, the Orientals disclaimed these exclamations; but the Egyptians more consistently declared ταυτα και, τοτε ειπομεν και νυν λεγομεν, (Concil. tom. iv, p. 1012).

ing to depose their patriarch for the use or even the abuse of his lawful jurisdiction. They embraced the knees of Dioscorus, as he stood with a threatening aspect on the footstool of his throne, and conjured him to forgive the offences, and to respect the dignity of his brother. "Do you mean to raise a sedition?" exclaimed the relentless tyrant. "Where are "the officers?" At these words a furious multitude of monks and soldiers, with staves, and swords, and chains, burst into the church: the trembling bishops hid themselves behind the altar, or under the benches, and as they were not inspired with the zeal of martyrdom, they successively subscribed a blank paper, which was afterwards filled with the condemnation of the Byzantine pontiff. Flavian was instantly delivered to the wild beasts of this spiritual amphitheatre: the monks were stimulated by the voice and example of Barsumas to avenge the injuries of Christ: it is said that the patriarch of Alexandria reviled, and buffeted, and kicked, and trampled his brother of Constantinople: [p] it is certain, that the victim, before he could reach the place of his exile, expired, on the third day, of the wounds and

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[p] Ελεγε δε (Eusebius, bishop of Dorylæum) τον Φλαβιανον και δικαιως αιτιασθηναι προς Διοσκορε ωθεμενον τε και λακτιζομενον: and this testimony of Evagrius (l. ii, c. ii) is amplified by the historian Zonaras, (tom. ii, l. xiii, p. 44), who affirms that Dioscorus kicked like a wild ass. But the language of Liberatus (Brev. c. 12, in Concil. tom. vi, p. 438) is more cautious; and the Acts of Chalcedon, which lavish the names of homicide, Cain, &c. do not justify so pointed a charge. The monk Barsumas is more particularly accused—εσφαζε τον μακαριον Φλαυιανον αυτος εστηκε και ελεγε, σφαξον, (Concil. tom. iv, p. 1428).

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bruises which he had received at Ephesus. This second synod has been justly branded as a gang of robbers and assassins; yet the accusers of Dioscorus would magnify his violence, to alleviate the cowardice and inconstancy of their own behaviour.

Council of Chalcedon, A. D. 451. Oct. 8-Nov. 1.

The faith of Egypt had prevailed: but the vanquished party was supported by the same pope who encountered without fear the hostile rage of Attila and Genseric. The theology of Leo, his famous *tome* or epistle on the mystery of the incarnation, had been disregarded by the synod of Ephesus; his authority, and that of the Latin church, was insulted in his legates, who escaped from slavery and death to relate the melancholy tale of the tyranny of Dioscorus and the martyrdom of Flavian. His provincial synod annulled the irregular proceedings of Ephesus; but as this step was itself irregular, he solicited the convocation of a general council in the free and orthodox provinces of Italy. From his independent throne, the Roman bishop spoke and acted without danger, as the head of the Christians, and his dictates were obsequiously transcribed by Placidia and her son Valentinian; who addressed their eastern colleague to restore the peace and unity of the church. But the pageant of oriental royalty was moved with equal dexterity by the hand of the eunuch; and Theodosius could pronounce, without hesitation, that the church was already peaceful and triumphant, and that the recent flame had been extinguished by the just punishment of the Nestorians. Perhaps

the Greeks would be still involved in the here- CHAP.
sy of the Monophysites, if the emperor's horse XLVII.
had not fortunately stumbled; Theodosius expired, his orthodox sister, Pulcheria, with a nominal husband, succeeded to the throne; Chrysaphius was burnt, Dioscorus was disgraced, the exiles were recalled, and the *tome* of Leo was subscribed by the oriental bishops Yet the pope was disappointed in his favourite project of a Latin council: he disdained to preside in the Greek synod, which was speedily assembled at Nice in Bithynia; his legates required in a peremptory tone the presence of the emperor; and the weary fathers were transported to Chalcedon under the immediate eye of Marcian and the senate of Constantinople. A quarter of a mile from the Thracian Bosphorus, the church of St Euphemia was built on the summit of a gentle though lofty ascent: the triple structure was celebrated as a prodigy of art, and the boundless prospect of the land and sea might have raised the mind of a sectary to the contemplation of the God of the universe. Six hundred and thirty bishops were ranged in order in the nave of the church; but the patriarchs of the East were preceded by the legates, of whom the third was a simple priest; and the place of honour was reserved for twenty laymen of consular or senatorian rank. The gospel was ostentatiously displayed in the centre, but the rule of faith was defined by the papal and imperial ministers, who moderated the thirteen sessions of the council of Chalcedon. [q]

[q] The acts of the Council of Chalcedon, (Concil. tom. iv, p. 761.

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Their partial interposition silenced the intemperate shouts and execrations, which degraded the episcopal gravity: but, on the formal accusation of the legates, Dioscorus was compelled to descend from his throne to the rank of a criminal, already condemned in the opinion of his judges. The Orientals, less adverse to Nestorius than to Cyril, accepted the Romans as their deliverers: Thrace, and Pontus, and Asia, were exasperated against the murderer of Flavian, and the new patriarchs of Constantinople and Antioch secured their places by the sacrifice of their benefactor. The bishops of Palestine, Macedonia, and Greece, were attached to the faith of Cyril; but in the face of the synod, in the heat of the battle, the leaders, with their obsequious train, passed from the right to the left wing, and decided the victory by this seasonable desertion. Of the seventeen suffragans who sailed from Alexandria, four were tempted from their allegiance, and the thirteen, falling prostrate on the ground, implored the mercy of the council, with sighs and tears, and a pathetic declaration, that, if they yielded, they should be massacred, on their return to Egypt, by the indignant people. A tardy repentance was allowed to expiate the guilt or

2071) comprehend those of Ephesus, (p. 890-1189) which again comprise the synod of Constantinople under Flavian, (p. 950-1072); and it requires some attention to disengage this double involution. The whole business of Eutyches, Flavian, and Dioscorus, is related by Evagrius (l. i. c. 9-12, and l. ii, c. 1, 2, 3, 4) and Liberatus, (Brev. c. 11, 12, 13, 14). Once more, and almost for the last time, I appeal to the diligence of Tillemont, (Mem. Eccles. tom. xv, p. 479-719). The annals of Baronius and Pagi will accompany me much farther on my long and laborious journey.

error of the accomplices of Dioscorus: but their sins were accumulated on his head; he neither asked nor hoped for pardon, and the moderation of those who pleaded for a general amnesty, was drowned in the prevailing cry of victory and revenge. To save the reputation of his late adherents, some *personal* offences were skilfully detected; his rash and illegal excommunication of the pope, and his contumacious refusal (while he was detained a prisoner) to attend the summons of the synod. Witnesses were introduced to prove the special facts of his pride, avarice, and cruelty; and the fathers heard with abhorrence, that the alms of the church were lavished on the female dancers, that his palace, and even his bath, was open to the prostitutes of Alexandria, and that the infamous Pansophia, or Irene, was publicly entertained as the concubine of the patriarch.[r] CHAP. XLVII.

For these scandalous offences Dioscorus was deposed by the synod, and banished by the emperor: but the purity of his faith was declared in the presence, and with the tacit ap- Faith of Chalcedon.

[r] Μαλιστα ἡ περιβοητος Παισοφια ἡ καλουμενη Ορεινη, (perhaps Εἰρηνη, περι ἡς και ὁ πολυκυνθρωπος της Αλεξανδρεων δημος ωφηκε φωνην ἀυτης τι και τω ερασω μεμνημενος, (Concil. tom. iv, p. 1276). A specimen of the wit and malice of the people is preserved in the Greek Anthology, (l. ii, c. 5, p. 188, edit. Wechel), although the application was unknown to the editor Brodæus. The nameless epigrammatist raises a tolerable pun, by confounding the episcopal salutation of "Peace be to all!" with the genuine or corrupted name of the bishop's concubine.—

Εἰρηνη παντεσσιν επισκοπος εἰπεν απελλων,
Πως δυναται πασιν ἡν μοιος ενδον ἐχει;

I am ignorant whether the patriarch, who seems to have been a jealous lover, is the Cimon of a preceding epigram, whose πτος εσηκος was viewed with envy and wonder by Priapus himself.

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probation, of the fathers. Their prudence supposed rather than pronounced the heresy of Eutyches, who was never summoned before their tribunal; and they sat silent and abashed, when a bold Monophysite, casting at their feet a volume of Cyril, challenged them to anathematize in his person the doctrine of the saint. If we fairly peruse the acts of Chalcedon as they are recorded by the orthodox party,[*] we shall find that a great majority of the bishops embraced the simple unity of Christ; and the ambiguous concession, that he was formed OF OR FROM two natures, might imply either their previous existence, or their subsequent confusion, or some dangerous interval between the conception of the man and the assumption of the God. The Roman theology, more positive and precise, adopted the term most offensive to the ears of the Egyptians, that Christ existed IN two natures: and this momentous particle (which the memory, rather than the under-

[*] Those who reverence the infallibility of synods, may try to ascertain their sense: The leading bishops were attended by partial or careless scribes, who dispersed their copies round the world. Our Greek MSS are sullied with the false and proscribed reading of εκ των φυσεων, (Concil. tom. iii, p. 1160): the authentic translation of Pope Leo I. does not seem to have been executed; and the old Latin versions material y differ from the present vulgate, which was revised (A. D. 550) by Rusticus, a Roman priest, from the best MSS. of the Ακοιμητοι at Constantinople, (Ducange, C. P. Christiana, l. iv, p. 151), a famous monastery of Latins, Greeks, and Syrians. See Concil. tom. iv, p. 1959-2049, and Pagi Critica, tom. ii, p. 326, &c.

[*] It is darkly represented in the microscope of Petavius, (tom. v, l. iii, c. 5); yet the subtle theologian is himself afraid—ne quis fortasse supervacaneam, et nimis anxiam putet hujusmodi vocularum inquisitionem, et ab instituti theologici gravitate alienam, (p. 124).

standing, must retain) had almost produced a schism among the catholic bishops. The *tome* of Leo had been respectfully, perhaps sincerely, subscribed: but they protested, in two successive debates, that it was neither expedient nor lawful to transgress the sacred landmarks which had been fixed at Nice, Constantinople, and Ephesus, according to the rule of scripture and tradition. At length they yielded to the importunities of their masters, but their infallible decree, after it had been ratified with deliberate votes and vehement acclamations, was overturned in the next session by the opposition of the legates and their oriental friends. It was in vain that a multitude of episcopal voices repeated in chorus, "The definition of "the fathers is orthodox and immutable! The "heretics are now discovered! Anathema to "the Nestorians! Let them depart from the "synod! Let them repair to Rome!" [u] The legates threatened, the emperor was absolute, and a committee of eighteen bishops prepared a new decree, which was imposed on the reluctant assembly. In the name of the fourth general council, the Christ in one person, but in two natures, was announced to the catholic world: an invisible line was drawn between the heresy of Apollinaris and the faith of St Cyril; and the road to paradise, a bridge as sharp as a

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[u] Εβοησαν η ὁ ὁρος κρατειτω η απειρχομεθα . . . οι αντιλεγοντες φανεροι γενωνται οι αντιλεγοντες Νεστοριανοι εισιν, οι αντιλεγοντες εις Ρωμην απελθωσιν. (Conc. tom. iv, p. 1449.) Evagrius and Liberatus present only the placid face of the synod, and discreetly slide over these embers suppositos cinere doloso.

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razor, was suspended over the abyss by the master-hand of the theological artist. During ten centuries of blindness and servitude, Europe received her religious opinions from the oracle of the Vatican; and the same doctrine, already varnished with the rust of antiquity, was admitted without dispute into the creed of the reformers, who disclaimed the supremacy of the Roman pontiff. The synod of Chalcedon still triumphs in the protestant churches; but the ferment of controversy has subsided, and the most pious Christians of the present day are ignorant or careless of their own belief concerning the mystery of the incarnation.

Discord of the East, A. D. 451-482.

Far different was the temper of the Greeks and Egyptians under the orthodox reigns of Leo and Marcian. Those pious emperors enforced with arms and edicts the symbol of their faith;[x] and it was declared by the conscience or honour of five hundred bishops, that the decrees of the synod of Chalcedon might be lawfully supported, even with blood. The catholics observed with satisfaction, that the same synod was odious both to the Nestorians and the Monophysites;[y] but the Nestorians were

[x] See in the Appendix to the Acts of Chalcedon, the confirmation of the synod by Marcian, (Concil. tom. iv, p. 1781, 1783); his letters to the monks of Alexandria, (p. 1791), of Mount Sinai, (p. 1793), of Jerusalem and Palestine, (p. 1798); his laws against the Eutychians, (p. 1809, 1811, 1831); the correspondence of Leo with the provincial synods on the revolution of Alexandria, (p. 1835, 1930).

[y] Photius (or rather Eulogius of Alexandria) confesses, in a fine passage, the specious colour of this double charge against Pope Leo and his synod of Chalcedon, (Bibliot. cod. ccxxv, p. 768). He waged a double war against the enemies of the church, and wounded either

less angry, or less powerful, and the East was distracted by the obstinate and sanguinary zeal of the Monophysites. Jerusalem was occupied by an army of monks; in the name of the one incarnate nature, they pillaged, they burnt, they murdered; the sepulchre of Christ was defiled with blood; and the gates of the city were guarded in tumultuous rebellion against the troops of the emperor. After the disgrace and exile of Dioscorus, the Egyptians still regretted their spiritual father; and detested the usurpation of his successor, who was introduced by the fathers of Chalcedon. The throne of Proterius was supported by a guard of two thousand soldiers; he waged a five years' war against the people of Alexandria; and on the first intelligence of the death of Marcian, he became the victim of their zeal. On the third day before the festival of Easter, the patriarch was besieged in the cathedral, and murdered in the baptistery. The remains of his mangled corpse were delivered to the flames, and his ashes to the wind: and the deed was inspired by the vision of a pretended angel: an ambitious monk, who, under the name of Timothy the Cat,[z] succeeded to the place and opinions

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foe with the darts of his adversary—κατακλληλοις βελεσι της αντιπαλης επτροωσκε. Against Nestorius he seemed to introduce the συγχυσις of the Monophysites: against Eutyches he appeared to countenance the ὑποστασεων διαφορα of the Nestorians. The apologist claims a charitable interpretation for the saints: if the same had been extended to the heretics, the sound of the controversy would have been lost in the air.

[z] Αιλουρος, from his nocturnal expeditions. In darkness and disguise he crept round the cells of the monastery, and whispered the revelation to his slumbering brethren, (Theodor. Lector. l. 1).

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of Dioscorus. This deadly superstition was inflamed, on either side, by the principle and the practice of retaliation: in the pursuit of a metaphysical quarrel, many thousands[a] were slain, and the Christians of every degree were deprived of the substantial enjoyments of social life, and of the invisible gifts of baptism and the holy communion. Perhaps an extravagant fable of the times may conceal an allegorical picture of these fanatics, who tortured each other, and themselves. "Under the consulship of Venantius and Celer," says a grave bishop, "the people of Alexandria, and all "Egypt, were seized with a strange and diabolical frenzy: great and small, slaves and "freemen, monks and clergy, the natives of the "land, who opposed the synod of Chalcedon, "lost their speech and reason, barked like "dogs, and tore, with their own teeth, the "flesh from their hands and arms."[b]

The Henoticon of Zeno, A. D. 482.

The disorders of thirty years at length produced the famous HENOTICON[c] of the emperor Zeno, which in his reign, and in that of Anastasius, was signed by all the bishops of the East, under the penalty of degradation and ex-

[a] Φονους τε τολμηθηναι μυριους αιματων πληθει μολυνθηναι μη μονον την γην αλλα και αυτον τον αιερα. Such is the hyperbolic language of the Henoticon.

[b] See the Chronicle of Victor Tunnensis, in the Lectiones Antiquae of Canisius, republished by Basnage, tom. i, p. 326.

[c] The Henoticon is transcribed by Evagrius, (*l. iii*, c. 13), and translated by Liberatus, (Brev. c. 18). Pagi (Critica, tom. ii, p. 414, and Asseman (Bibliot. Orient. tom. i, p. 313) are satisfied that it is free from heresy; but Petavius (Dogmat. Theolog. tom. v, l. i, c. 13, p. 40, most unaccountably affirms Chalcedonensem ascivit. An adversary would prove that he had never read the Henoticon.

ile, if they rejected or infringed this salutary and fundamental law. The clergy may smile or groan at the presumption of a layman who defines the articles of faith; yet if he stoops to the humiliating task, his mind is less infected by prejudice or interest, and the authority of the magistrate can only be maintained by the concord of the people. It is in ecclesiastical story, that Zeno appears less contemptible; and I am not able to discern any Manichæan or Eutychian guilt in the generous saying of Anastasius, that it was unworthy of an emperor to persecute the worshippers of Christ and the citizens of Rome. The Henoticon was most pleasing to the Egyptians; yet the smallest blemish has not been described by the jealous, and even jaundiced, eyes of our orthodox schoolmen, and it accurately represents the catholic faith of the incarnation, without adopting or disclaiming the peculiar terms or tenets of the hostile sects. A solemn anathema is pronounced against Nestorius and Eutyches; against all heretics by whom Christ is divided, or confounded, or reduced to a phantom. Without defining the number or the article of the word *nature*, the pure system of St Cyril, the faith of Nice, Constantinople, and Ephesus, is respectfully confirmed; but, instead of bowing at the name of the fourth council, the subject is dismissed by the censure of all contrary doctrines, *if* any such have been taught either elsewhere or at Chalcedon. Under this ambiguous expression, the friends and the enemies of the last synod might unite in a silent em- CHAP. XLVII.

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brace. The most reasonable Christians acquiesced in this mode of toleration; but their reason was feeble and inconstant, and their obedience was despised as timid and servile by the vehement spirit of their brethren. On a subject which engrossed the thoughts and discourses of men, it was difficult to preserve an exact neutrality; a book, a sermon, a prayer, rekindled the flame of controversy; and the bonds of communion were alternately broken and renewed by the private animosity of the bishops. The space between Nestorius and Eutyches was filled by a thousand shades of language and opinion; the *acephali*[d] of Egypt, and the Roman pontiffs, of equal valour, though of unequal strength, may be found at the two extremities of the theological scale. The acephali, without a king or a bishop, were separated above three hundred years from the patriarchs of Alexandria, who had accepted the communion of Constantinople, without exacting a formal condemnation of the synod of Chalcedon. For accepting the communion of Alexandria, without a formal approbation of the same synod, the patriarchs of Constantinople were anathematized by the popes. Their inflexible despotism involved the most orthodox of the Greek churches in this spiritual contagion, denied or doubted the validity of

[d] See Renaudot, (Hist. Patriarch. Alex. p. 125, 131, 145, 195-247). They were reconciled by the care of Mark I, A. D. 799-819); he promoted their chiefs to the bishopries of Athribis and Talba (perhaps Tava; see d'Anville, p. 82), and supplied the sacraments, which had failed for want of an episcopal ordination.

their sacraments,[e] and fomented, thirty-five years, the schism of the East and West, till they finally abolished the memory of four Byzantine pontiffs, who had dared to oppose the supremacy of St Peter.[f] Before that period, the precarious truce of Constantinople and Egypt had been violated by the zeal of the rival prelates. Macedonius, who was suspected of the Nestorian heresy, asserted, in disgrace and exile, the synod of Chalcedon, while the successor of Cyril would have purchased its overthrow with a bribe of two thousand pounds of gold. CHAP. XLVII.

In the fever of the times, the sense, or rather the sound of a syllable, was sufficient to disturb the peace of an empire. The TRISAGION,[g] (thrice holy), "Holy, holy, holy, Lord God of

The trisagion and religious war till the death of Anastasius, A. D. 508-518.

[e] De his quos baptizavit, quos ordinavit Acacius, majorum traditione confectam et veram, præcipue religiosæ solicitudini congruam præbemus sine difficultate medicinam, (Galasius, in epist. i, ad Euphemium, Concil. tom. v, 286). The offer of a medicine proves the disease, and numbers must have perished before the arrival of the Roman physician. Tillemont himself (Mem. Eccles. tom. xvi, p. 372, 642, &c.) is shocked at the proud uncharitable temper of the popes; they are now glad, says he, to invoke St Flavian of Antioch, St Elias of Jerusalem, &c. to whom they refused communion whilst upon earth. But Cardinal Baronius is firm and hard as the rock of St Peter.

[f] Their names were erased from the diptych of the church: ex venerabili diptycho, in quo piæ memoriæ transitum ad cœlum habentium episcoporum vocabula continentur, (Concil. tom. iv, p. 1846). This ecclesiastical record was therefore equivalent to the book of life.

[g] Petavius (Dogmat. Theolog. tom. v, l. v, c. 2, 3, 4, p. 217-225) and Tillemont (Mem. Eccles. tom. xiv, p. 713, &c. 799) represent the history and doctrine of the Trisagion. In the twelve centuries between Isaiah and St Proclus's boy, who was taken up into heaven before the bishop and people of Constantinople, the song was considerably improved. The boy heard the angels sing "Holy God! Holy Strong! Holy immortal!"

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Hosts!" is supposed, by the Greeks, to be the identical hymn which the angels and cherubim eternally repeat before the throne of God, and which, about the middle of the fifth century, was miraculously revealed to the church of Constantinople. The devotion of Antioch soon added, "who was crucified for us!" and this grateful address, either to Christ alone, or to the whole Trinity, may be justified by the rules of theology, and has been gradually adopted by the catholics of the East and West. But it had been imagined by a monophysite bishop;[h] the gift of an enemy was at first rejected as a dire and dangerous blasphemy, and the rash innovation had nearly cost the emperor Anastasius his throne and his life.[i] The people of Constantinople was devoid of any rational principles of freedom; but they held, as a lawful cause of rebellion, the colour of a livery in the races, or the colour of a mystery in the schools. The Trisagion, with and without this obnoxious addition, was chanted in the cathedral by two adverse choirs, and, when their lungs were exhausted, they had recourse to the more solid arguments of sticks and stones: the aggressors were punished by the emperor, and defended by the patriarch; and the crown and mitre were staked on the event of this momentous

[h] Peter Gnapheus, the fuller, (a trade which he had exercised in his monastery), patriarch of Antioch. His tedious story is discussed in the Annals of Pagi, (A. D 477-490), and a dissertation of M. de Valois at the end of his Evagrius.

[i] The troubles under the reign of Anastasius must be gathered from the chronicles of Victor, Marcellinus, and Theophanes. As the last was not published in the time of Baronius, his critic Pagi is more copious, as well as more correct.

quarrel. The streets were instantly crowded with innumerable swarms of men, women, and children; the legions of monks, in regular array, marched and shouted, and fought at their head,—"Christians! this is the day of martyr-"dom; let us not desert our spiritual father; "anathema to the Manichæan tyrant; he is "unworthy to reign." Such was the catholic cry; and the galleys of Anastasius lay upon their oars before the palace, till the patriarch had pardoned his penitent, and hushed the waves of the troubled multitude. The triumph of Macedonius was checked by a speedy exile; but the zeal of his flock was again exasperated by the same question,—"Whether one "of the Trinity had been crucified?" On this momentous occasion, the blue and green factions of Constantinople suspended their discord, and the civil and military powers were annihilated in their presence. The keys of the city, and the standards of the guards were deposited in the forum of Constantine, the principal station and camp of the faithful. Day and night they were incessantly busied either in singing hymns to the honour of their God, or in pillaging and murdering the servants of their prince. The head of his favourite monk, the friend, as they styled him, of the enemy of the Holy Trinity, was borne aloft on a spear; and the fire-brands, which had been darted against heretical structures, diffused the undistinguishing flames over the most orthodox buildings. The statues of the emperor were broken, and his person was concealed in a suburb, till, at the end of three

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days, he dared to implore the mercy of his subjects. Without his diadem, and in the posture of a suppliant, Anastasius appeared on the throne of the circus. The catholics, before his face, rehearsed their genuine Trisagion; they exulted in the offer which he proclaimed by the voice of an herald, of abdicating the purple; they listened to the admonition, that since *all* could not reign, they should previously agree in the choice of a sovereign; and they accepted the blood of two unpopular ministers, whom their master, without hesitation, condemned to the lions. These furious but transient seditions were encouraged by the success of Vitalian, who, with an army of Huns and Bulgarians, for the most part idolaters, declared himself the champion of the catholic faith. In this pious rebellion he depopulated Thrace, besieged Constantinople, exterminated sixty-five thousand of his fellow Christians, till he obtained the recall of the bishops, the satisfaction of the pope, and the establishment of the council of Chalcedon, an orthodox treaty, reluctantly signed by the dying Anastasius, and more faithfully performed by the uncle of Justinian. And such was the event of the *first* of the religious wars, which have been waged in the name, and by the disciples, of the God of Peace.[k]

First religious war, A. D. 514.

[k] The general history, from the council of Chalcedon to the death of Anastasius, may be found in the Breviary of Liberatus, (c. 14-19), the second and third books of Evagrius, the Abstract of the two books of Theodore the Reader, the Acts of the Synods, and the Epistles of the Popes, (Concil. tom. v). The series is continued with some disorder in the xvth and xvith tomes of the Memoires Ecclesiastiques of Tillemont. And here I must take leave for ever

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Theological character and government of Justinian, A. D. 19-565.

Justinian has been already seen in the various light of a prince, a conqueror, and a lawgiver: the theologian[l] still remains, and it affords an unfavourable prejudice, that his theology should form a very prominent feature of his portrait. The sovereign sympathised with his subjects in their superstitious reverence for living and departed saints; his code, and more especially his novels, confirm and enlarge the privileges of the clergy; and in every dispute between a monk and a layman, the partial judge was inclined to pronounce, that truth, and innocence, and justice, were always on the side of the church. In his public and private devotions, the emperor was assiduous and exemplary; his prayers, vigils, and fasts, displayed the austere penance of a monk; his fancy was amused by the hope, or belief, of personal inspiration; he had secured the patronage of the Virgin and St Michael the archangel; and his recovery from a dangerous disease was ascribed to the miraculous succour of the holy martyrs Cosmas and Damian. The capital and the provinces of the East were decorated with the monuments of his religion;[m] and, though the far greater part of

of that incomparable guide—whose bigotry is overbalanced by the merits of erudition, diligence, veracity, and scrupulous minuteness. He was prevented by death *from* completing, as he designed, the vith century of the church and empire.

[l] The strain of the Anecdotes of Procopius, (c. 11, 13, 18, 27, 28), with the learned remarks of Alemannus, is confirmed, rather than contradicted, by the Acts of the Councils, the fourth book of Evagrius, and the complaints of the African Facundus in his xiith book—de tribus capitulis, "cum videri doctus appetit importune . . . sponetaneis quæstionibus ecclesiam turbat." See Procop. de Bell. Goth. l. iii, c. 35.

[m] Procop. de Edificiis, l. i, c. 6, 7, &c. passim.

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these costly structures may be attributed to his taste or ostentation, the zeal of the royal architect was probably quickened by a genuine sense of love and gratitude towards his invisible benefactors. Among the titles of imperial greatness, the name of *Pious* was most pleasing to his ear; to promote the temporal and spiritual interest of the church, was the serious business of his life; and the duty of father of his country was often sacrificed to that of defender of the faith. The controversies of the times were congenial to his temper and understanding; and the theological professors must inwardly deride the diligence of a stranger, who cultivated their art and neglected his own. "What "can ye fear," said a bold conspirator to his associates, "from your bigoted tyrant? Sleep- "less and unarmed he sits whole nights in his "closet, debating with reverend grey-beards, "and turning over the pages of ecclesiastical "volumes." [n] The fruits of these lucubrations were displayed in many a conference, where Justinian might shine as the loudest and most subtile of the disputants, in many a sermon, which, under the name of edicts and epistles, proclaimed to the empire the theology of their master. While the barbarians invaded the provinces, while the victorious legions marched under the banners of Belisarius and Narses, the successor of Trajan, unknown to the camp, was

[n] Ὁς δὲ καθηλαι αφυλακλος ες αει επὶ λισχης τινος αωρι νυκλων ὁμε τοις των ἱερεων γεροντιν ασχετον ανακυκλειν τα Χριστιανων λογια σπουδην εχων. Procop. de Bell. Goth. l. iii, c. 32. In the life of St Eutychius, (apud Aleman. ad Procop. Arcan. c. 18), the same character is given with a design to praise Justinian.

content to vanquish at the head of a synod. Had he invited to these synods a disinterested and rational spectator, Justinian might have learned "*that* religious controversy is the offspring of arrogance and folly; *that* true piety "is most laudably expressed by silence and "submission; *that* man, ignorant of his own "nature, should not presume to scrutinize the "nature of his God; and *that* it is sufficient "for us to know, that power and benevolence "are the perfect attributes of the Deity." [o] CHAP. XLVII.

His persecution

Toleration was not the virtue of the times, and indulgence to rebels has seldom been the virtue of princes. But when the prince descends to the narrow and peevish character of a disputant, he is easily provoked to supply the defect of argument by the plenitude of power, and to chastise without mercy the perverse blindness of those who wilfully shut their eyes against the light of demonstration. The reign of Justinian was an uniform yet various scene of persecution; and he appears to have surpassed his indolent predecessors, both in the contrivance of his laws and the rigour of their execution. The insufficient term of three months was assigned for the conversion or exile of all heretics; [p] and if he still connived at their pre-

of heretics;

[o] For these wise and moderate sentiments, Procopius (de Bell. Goth. l. i, c. 3) is scourged in the preface of Alemannus, who ranks him among the political Christians—sed longe verius hæresum omnium sentinas, prorsusque Atheos—abominable Atheists who preached the imitation of God's mercy to man, (ad Hist. Arcan. c. 13).

[p] This alternative, a precious circumstance, is preserved by John Malala, (tom. ii, p. 68, edit. Venet. 1733) who deserves more credit as he draws towards his end. After numbering the heretics, Nestorians, Eutychians, &c. he expectent, says Justinian, ut digni venia

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carious stay, they were deprived, under his iron yoke, not only of the benefits of society, but of the common birth-right of men and Christians. At the end of four hundred years, the Montanists of Phrygia[q] still breathed the wild enthusiasm of perfection and prophesy, which they had imbibed from their male and female apostles, the special organs of the Paraclete. On the approach of the catholic priests and soldiers, they grasped with alacrity the crown of martyrdom; the conventicle and the congregation perished in the flames, but these primitive fanatics were not extinguished three hundred years after the death of their tyrant. Under the protection of the Gothic confederates, the church of the Arians of Constantinople had braved the severity of the laws; their clergy equalled the wealth and magnificence of the senate; and the gold and silver which were seized by the rapacious hand of Justinian might perhaps be claimed as the spoils of the provinces and the trophies of the barbarians. A secret remnant of pagans, who still lurked in the most refined and the most rustic conditions of mankind, excited the indignation of the Christians, who were perhaps unwilling that any strangers should be the witnesses of their intestine quarrels. A bishop was named as the inquisitor of the faith, and his diligence soon discovered in the court and city, the magistrates,

of pagans;

judicentur: jubemus, enim ut . . . convicti et aperti hæretici justæ et idoneæ animadversioni subjiciantur. Baronius copies and applauds this edict of the Code, (A. D. 527, No. 39-40).

[q] See the character and principles of the Montanists, in Mosheim, de Rebus Christ. ante Constantinum, p. 410-424.

lawyers, physicians, and sophists, who still cherished the superstition of the Greeks. They were sternly informed that they must choose without delay between the displeasure of Jupiter or Justinian, and that their aversion to the gospel could no longer be disguised under the scandalous mask of indifference or impiety. The patrician Photius perhaps alone was resolved to live and to die like his ancestors: he enfranchised himself with the stroke of a dagger, and left his tyrant the poor consolation of exposing with ignominy the lifeless corpse of the fugitive. His weaker brethren submitted to their earthly monarch, underwent the ceremony of baptism, and laboured, by their extraordinary zeal, to erase the suspicion, or to expiate the guilt of idolatry. The native country of Homer, and the theatre of the Trojan war, still retained the last sparks of his mythology: by the care of the same bishop, seventy thousand pagans were detected and converted in Asia, Phrygia, Lydia, and Caria; ninety-six churches were built for the new proselytes; and linen vestments, bibles, and liturgies, and vases of gold and silver, were supplied by the pious munificence of Justinian.[r] The Jews, who had been gradually stripped of their immunities, were oppressed by a vexatious law, which compelled them to observe the festival of Easter the same day on which it was cele-

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of Jews;

[r] Theophan. Chron. p. 153. John de Monophysite bishop of Asia, is a more authentic witness of this transaction, in which he was himself employed by the emperor, (Asseman. Bib. Orient. tom. ii, p. 85).

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brated by the Christians.[s] And they might complain with the more reason, since the catholics themselves did not agree with the astronomical calculations of their sovereign: the people of Constantinople delayed the beginning of their Lent a whole week after it had been ordained by authority; and they had the pleasure of fasting seven days, while meat was exposed for sale by the command of the emperor.

of Samaritans.

The Samaritans of Palestine[t] were a motley race, an ambiguous sect, rejected as Jews by the pagans, by the Jews as schismatics, and by the Christians as idolaters. The abomination of the cross had already been planted on their holy mount of Garizim,[u] but the persecution of Justinian offered only the alternative of baptism or rebellion. They chose the latter: under the standard of a desperate leader, they rose in arms, and retaliated their wrongs on the lives, the property, and the temples, of a defenceless people. The Samaritans were finally subdued by the regular forces of the East; twenty thousand were slain, twenty thousand

[s] Compare Procopius (Hist. Arcan. c. 28, and Aleman's Notes) with Theophanes, (Chron. p. 190). The council of Nice has intrusted the patriarch, or rather the astronomers of Alexandria, with the annual proclamation of Easter; and we still read, or rather we do not read, many of the Paschal epistles of St Cyril. Since the reign of Monophytism in Egypt, the catholics were perplexed by a foolish prejudice as that which so long opposed, among the protestants, the reception of the Gregorian style.

[t] For the religion and history of the Samaritans, consult Basnage, Histoire des Juifs, a learned and impartial work.

[u] Sichem, Neapolis, Naplous the ancient and modern seat of the Samaritans, is situate in a valley between the barren Ebal, the mountain of cursing to the north, the fruitful Garizim, or mountain of cursing to the south te or eleven hours' travel from Jerusalem See Maundrel, Journey from Aleppo, &c. p. 59-63.

were sold by the Arabs to the infidels of Persia and India, and the remains of that unhappy nation atoned for the crime of treason by the sin of hypocrisy. It has been computed that one hundred thousand Roman subjects were extirpated in the Samaritan war,[x] which converted the once fruitful province into a desolate and smoking wilderness. But in the creed of Justinian, the guilt of murder could not be applied to the slaughter of unbelievers; and he piously laboured to establish with fire and sword the unity of the Christian faith.[y] CHAP. XLVII.

His orthodoxy.

With these sentiments, it was incumbent on him, at least, to be always in the right. In the first years of his administration, he signalized his zeal as the disciple and patron of orthodoxy: the reconciliation of the Greeks and Latins established the *tome* of St Leo as the creed of the emperor and the empire; the Nestorians and Eutychians were exposed, on either side, to the double edge of persecution; and the four synods of Nice, Constantinople, Ephesus, and *Chalcedon*, were ratified by the code of a catholic lawgiver.[z] But while Justinian strove to maintain the uniformity of faith and worship,

[x] Procop. Anecdot. c. 11. Theophan. Chron. p. 152. John Malala, Chron. tom. ii, p. 62. I remember an observation, half philosophical, half superstitious, that the province which had been ruined by the bigotry of Justinian, was the same through which the Mahometans penetrated into the empire.

[y] The expression of Procopius is remarkable: η γαρ ὁσιότης φόνου ἀνθρώπου εἶναι, ἢν γε μὴ τῆς αὐτῆς δόξης οἱ τελευτῶντες τυγχάνοιεν ὄντες. Anecdot. c. 13.

[z] See the Chronicle of Victor, p. 328, and the original evidence of the laws of Justinian. During the first years of his reign, Baronius himself is in extreme good humour with the emperor, who courted the popes, till he got them into his power.

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his wife Theodora, whose vices were not incompatible with devotion, had listened to the monophysite teachers; and the open or clandestine enemies of the church revived and multiplied at the smile of their gracious patroness. The capital, the palace, the nuptial bed, were torn by spiritual discord: yet so doubtful was the sincerity of the royal consorts, that their seeming disagreement was imputed by many to a secret and mischievous confederacy against the religion and happiness of their people.[a]

The three chapters, A. D. 532-698.

The famous dispute of the THREE CHAPTERS,[b] which has filled more volumes than it deserves lines, is deeply marked with this subtle and disingenuous spirit. It was now three hundred years since the body of Origen[c] had been eaten by the worms: his soul, of which he held the pre-existence, was in the hands of its Creator,

[a] Procopius, Anecdot. c. 13. Evagrius, l. iv, c. 10. If the ecclesiastical never read the sacred historian, their common suspicion proves at least the general hatred

[b] On the subject of the three chapters, the original acts of the vth general Council of Constantinople supply much useless though authentic knowledge, (Concil tom vi, p. 1-419). The Greek Evagrius is less copious and correct (l. iv, c. 38) than the three zealous Africans, Facundus, (in his twelve books de tribus capitulis, which are most correctly published by Sirmond), Liberatus, (in his Breviarium, c. 22, 23, 24), and Victor Tununensis in his Chronicle, (in tom. i, Antiq. Lect. Canisii, p. 330-334). The Liber Pontificalis, or Anastasius, (in Vigilio, Pelagio, &c.), is original, Italian evidence. The modern reader will derive some information from Dupin (Bibliot. Eccles. tom. v, p. 189-207), and Basnage, (Hist. de l'Eglise, tom. i, p. 519-541); yet the latter is too firmly resolved to depreciate the authority and character of the popes.

[c] Origen had indeed too great a propensity to imitate the πλανη and δυστοβια of the old philosophers, (Justinian, ad Mennam, in Concil. tom. vi, p. 356). His moderate opinions were too repugnant to the zeal of the church, and he was found guilty of the heresy of reason.

but his writings were eagerly perused by the monks of Palestine. In these writings, the piercing eye of Justinian descried more than ten metaphysical errors; and the primitive doctor, in the company of Pythagoras and Plato, was devoted by the clergy to the *eternity* of hell-fire, which he had presumed to deny. Under the cover of this precedent, a treacherous blow was aimed at the council of Chalcedon. The fathers had listened without impatience to the praise of Theodore of Mopsuestia;[d] and their justice or indulgence had restored both Theodoret of Cyrrhus, and Ibas of Edessa, to the communion of the church. But the characters of these oriental bishops were tainted with the reproach of heresy; the first had been the master, the two others were the friends of Nestorius: their most suspicious passages were accused under the title of the *three chapters;* and the condemnation of their memory must involve the honour of a synod, whose name was pronounced with sincere or affected reverence by the catholic world. If these bishops, whether innocent or guilty, were annihilated in the sleep of death, they would not probably be awakened by the clamour, which after an hundred years was raised over their grave. If they were already in the fangs

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[d] Basnage (Prefat. p. 11-14, ad tom. i, Antiq. Lect. Canis.) has fairly weighed the guilt and innocence of Theodore of Mopsuestia. If he composed 10,000 volumes, as many errors would be a charitable allowance. In all the subsequent catalogues of heresiarchs, he alone, without his two brethren, is included; and it is the duty of Asseman (Bibliot. Orient. tom. iv, p. 203-207) to justify the sentence.

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of the demon, their torments could neither be aggravated nor assuaged by human industry. If in the company of saints and angels they enjoyed the rewards of piety, they must have smiled at the idle fury of the theological insects who still crawled on the surface of the earth. The foremost of these insects, the emperor of the Romans, darted his sting, and distilled his venom, perhaps without discerning the true motives of Theodora and her ecclesiastical faction. The victims were no longer subject to his power, and the vehement style of his edicts could only proclaim their damnation, and invite the clergy of the East to join in a full chorus of curses and anathemas. The East, with some hesitation, consented to the voice of her sovereign: the fifth general council, of three patriarchs and one hundred and sixty-five bishops, was held at Constantinople; and the authors, as well as the defenders, of the three chapters were separated from the communion of the saints, and solemnly delivered to the prince of darkness. But the Latin churches were more jealous of the honour of Leo and the synod of Chalcedon; and if they had fought as they usually did under the standard of Rome, they might have prevailed in the cause of reason and humanity. But their chief was a prisoner in the hands of the enemy; the throne of St Peter, which had been disgraced by the simony, was betrayed by the cowardice of Vigilius, who yielded, after a long and inconsistent struggle, to the despotism of Justinian and the sophistry of the Greeks. His apostacy provok-

Vth general council: IIdof Constantinople, A. D. 553, May 4— June 2.

ed the indignation of the Latins, and no more than two bishops could be found who would impose their hands on his deacon and successor Pelagius. Yet the perseverance of the popes insensibly transferred to their adversaries the appellation of schismatics: the Illyrian, African, and Italian churches, were oppressed by the civil and ecclesiastical powers, not without some effort of military force; [e] the distant barbarians transcribed the creed of the Vatican, and in the period of a century, the schism of the three chapters expired in an obscure angle of the Venetian province. [f] But the religious discontent of the Italians had already promoted the conquests of the Lombards, and the Romans themselves were accustomed to suspect the faith, and to detest the government of their Byzantine tyrant. CHAP. XLVII.

Justinian was neither steady nor consistent in the nice process of fixing his volatile opinions and those of his subjects. In his youth, he was offended by the slightest deviation from the orthodox line; in his old age, he transgressed the measure of temperate heresy, and the Jacobites, Heresy of Justinian, A. D. 564.

[e] See the complaints of Liberatus and Victor, and the exhortations of Pope Pelagius to the conqueror and exarch of Italy. Schisma . . . . per potestates publicas opprimatur, &c. (Concil. tom. vi, p. 467, &c). An army was detained to suppress the sedition of an Illyrian city. See Procopius, (de Bell. Goth. l. iv, c. 25): αν περι ἑνικα σφισιν αυτοις οι Χριστιανοι διαμαχονται. He seems to promise an ecclesiastical history. It would have been curious and impartial.

[f] The bishops of the patriarchate of Aquileia were reconciled by Pope Honorius, A. D. 638, (Muratori, Annali d'Italia, tom. v, p. 376); but they again relapsed, and the schism was not finally extinguished till 698. Fourteen years before, the church of Spain had overlooked the vth general council with contemptuous silence, (xiii Concil. Toletan. in Concil. tom. vii, p. 487-494).

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not less than the catholics, were scandalized by his declaration, that the body of Christ was incorruptible, and that his manhood was never subject to any wants and infirmities, the inheritance of our mortal flesh. This *phantastic* opinion was announced in the last edicts of Justinian; and at the moment of his seasonable departure, the clergy had refused to transcribe, the prince was prepared to persecute, and the people were resolved to suffer or resist. A bishop of Treves, secure beyond the limits of his power, addressed the monarch of the East in the language of authority and affection. "Most "gracious Justinian, remember your baptism "and your creed! Let not your grey hairs be "defiled with heresy. Recall your fathers from "exile, and your followers from perdition. You "cannot be ignorant, that Italy and Gaul, Spain "and Africa, already deplore your fall, and "anathematize your name. Unless, without "delay, you destroy what you have taught; "unless you exclaim with a loud voice, I have "erred, I have sinned, anathema to Nestorius, "anathema to Eutyches, you will deliver your "soul to the same flames in which *they* will "eternally burn." He died and made no sign.[s] His death restored in some degree the peace of the church, and the reigns of his four successors, Justin, Tiberius, Maurice, and Pho-

[s] Nicetius, bishop of Treves, (Concil. tom. vi, p. 511-513): he himself, like most of the Gallican prelates, (Gregor. Epist. l. vii, ep. 5, in Concil. tom. vi, p. 1007), was separated from the communion of the four patriarchs by his refusal to condemn the three chapters. Baronius almost pronounces the damnation of Justinian, (A. D. 565, N° 6).

cas, are distinguished by a rare, though fortunate, vacancy in the ecclesiastical history of the East. [h] CHAP. XLVII.

The Monothelite controversy, A. D. 629.

The faculties of sense and reason are least capable of acting on themselves; the eye is most inaccessible to the sight, the soul to the thought; yet we think, and even feel, that *one will*, a sole principle of action, is essential to a rational and conscious being. When Heraclius returned from the Persian war, the orthodox hero consulted his bishops, whether the Christ whom he adored, of one person, but of two natures, was actuated by a single or a double will. They replied in the singular, and the emperor was encouraged to hope that the Jacobites of Egypt and Syria might be reconciled by the profession of a doctrine, most certainly harmless, and most probably true, since it was taught even by the Nestorians themselves. [i] The experiment was tried without effect, and the timid or vehement catholics condemned even the semblance of a retreat in the presence of a subtle and audacious enemy. The orthodox (the prevail-

[h] After relating the last heresy of Justinian, (l. iv, c. 39, 40, 41), and the edict of his successor, (l. v, c. 3), the remainder of the history of Evagrius is filled with civil, instead of ecclesiastical events.

[i] This extraordinary, and perhaps inconsistent, doctrine of the Nestorians, had been observed by La Croze, (Christianisme des Indes, tom. i, p. 19, 20), and is more fully exposed by Abulpharagius, (Bibliot. Orient. tom. ii, p. 292); Hist. Dynast. p. 91. vers. Latin. Pocock), and Asseman himself, (tom. iv, p. 218). They seem ignorant that they might allege the positive authority of the ecthesis. Ὁ μιαρος Νεςοριος καιπερ διαιρων την θειαν τε Κυριε ενανθρωπησιν, και δυο εισαγων υιους, (the common reproach of the Monophisites), δυο θελημαται τουτων ειπειν ουκ ετολμησε, τουναντιον δε ταυτο Βιβλιαν την . . . . δυο προσωπων εδοξασε. (Concil. tom. vii, p. 205).

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ing) party devised new modes of speech, and argument, and interpretation: to either nature of Christ, they speciously applied a proper and distinct energy; but the difference was no longer visible when they allowed that the human and the divine will were invariably the same.[k] The disease was attended with the customary symptoms; but the Greek clergy, as if satiate with the endless controversy of the incarnation, instilled a healing counsel into the ear of the prince and people. They declared themselves MONOTHELITES, (asserters of the unity of will), but they treated the words as new, the questions as superfluous; and recommended a religious silence as the most agreeable to the prudence and charity of the gospel. This law of silence was successively imposed by the *ecthesis* or exposition of Heraclius, the *type* or model of his grandson Constans;[l] and the imperial edicts were subscribed with alacrity or reluctance by the four patriarchs of Rome, Constantinople, Alexandria, and Antioch. But the bishop and monks of Jerusalem sounded the alarm: in the language, or even in the silence, of the Greeks, the Latin churches de-

The ecthesis of Heraclius, A. D. 639; the type of Constans, A. D. 648.

[k] See the orthodox faith in Petavius, (Dogmata Theolog. tom. v, l. ix, c. 6-10, p. 433-447): all the depths of this controversy are sounded in the Greek dialogue between Maximus and Pyrrhus, (ad calcem, tom. viii, Annal. Baron. p. 755-794), which relates a real conference, and produced as short-lived a conversion.

[l] Impiissimum ecthesim .... sceleratum typum (Concil. tom. vii, p. 366) diabolicæ operationis genimina, (sors, germina, or else the Greek γνωματα, in the original Concil. p. 363, 364), are the expressions of the xviiith anathema. The epistle of Pope Martin to Amandus, a Gallican bishop, stigmatizes the Monothelites and their heresy with equal virulence, (p. 392).

tected a latent heresy: and the obedience of Pope Honorius to the commands of his sovereign was retracted and censured by the bolder ignorance of his successors. They condemned the execrable and abominable heresy of the Monothelites, who revived the errors of Manes, Appollinaris, Eutyches, &c.; they signed the sentence of excommunication on the tomb of St Peter; the ink was mingled with the sacramental wine, the blood of Christ; and no ceremony was omitted that could fill the superstitious mind with horror and affright. As the representative of the western church, Pope Martin and his Lateran synod anathematized the perfidious and guilty silence of the Greeks; one hundred and five bishops of Italy, for the most part the subjects of Constans, presumed to reprobate his wicked *type* and the impious *ecthesis* of his grandfather, and to confound the authors and their adherents, with the twenty-one notorious heretics, the apostates from the church, and the organs of the devil. Such an insult under the tamest reign could not pass with impunity. Pope Martin ended his days on the inhospitable shore of the Tauric Chersonesus, and his oracle, the Abbot Maximus, was inhumanly chastised by the amputation of his tongue and his right hand.[m] But the same invincible spirit survived in their successors,

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[m] The sufferings of Martin and Maximus are described with pathetic simplicity in the original letters and acts, (Concil. tom. vii, p. 68-78. Baron. Annal. Eccles. A. D. 656, N° 2, et annos subsequent). Yet the chastisement of their disobedience, ἐξορια and σωματος στιγματος, had been previously announced in the type of Constans, (Concil. tom. vii, p. 240).

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and the triumph of the Latins avenged their recent defeat, and obliterated the disgrace of the three chapters. The synods of Rome were confirmed by the sixth general council of Constantinople, in the palace and the presence of a new Constantine, a descendant of Heraclius. The royal convert converted the Byzantine pontiff and a majority of the bishops;[n] the dissenters, with their chief, Macarius of Antioch, were condemned to the spiritual and temporal pains of heresy; the East condescended to accept the lessons of the West; and the creed was finally settled, which teaches the catholics of every age, that two wills or energies are harmonized in the person of Christ. The majesty of the pope and the Roman synod was represented by two priests, one deacon, and three bishops; but these obscure Latins had neither arms to compel, nor treasures to bribe, nor language to persuade; and I am ignorant by what arts they could determine the lofty emperor of the Greeks to abjure the catechism of his infancy, and to persecute the religion of his fathers. Perhaps the monks and people of Constantinople[o] were favourable to the Lateran creed, which is indeed the least favourable of the two:

VIth general council: IId of Constantinople, A. D. 680. Nov. 7- A. D. 681. Sept. 16.

[n] Eutychius (Annal. tom. ii. p. 368) most erroneously supposes that the 124 bishops of the Roman synod transported themselves to Constantinople; and by adding them to the 168 Greeks, thus composes the fourth council of 292 fathers.

[o] The Monothelite Constans was hated by all διὰ τοι ταυτα (says Theophanes, Chron. p. 292 ἐμισιθη σφοδρα παρα παντων. When the Monothelite monk failed in his miracle, the people shouted ὁ λαος ανεβοησε (Concil. tom. vii, p. 1032). But this was a natural and transient emotion; and I much fear that the latter is an anticipation of orthodoxy in the good people of Constantinople.

and the suspicion is countenanced by the unnatural moderation of the Greek clergy, who appear in this quarrel to be conscious of their weakness. While the synod debated, a fanatic proposed a more summary decision, by raising a dead man to life: the prelates assisted at the trial, but the acknowledged failure may serve to indicate, that the passions and prejudices of the multitude were not inlisted on the side of the Monothelites. In the next generation, when the son of Constantine was deposed and slain by the disciple of Macarius, they tasted the feast of revenge and dominion: the image or monument of the sixth council was defaced, and the original acts were committed to the flames. But in the second year, their patron was cast headlong from the throne, the bishops of the East were released from their occasional conformity, the Roman faith was more firmly replanted by the orthodox successors of Bardanes, and the fine problems of the incarnation were forgotten in the more popular and visible quarrel of the worship of images.[p]

Union of the Greek and Latin churches.

Before the end of the seventh century, the creed of the incarnation, which had been defined at Rome and Constantinople, was uniformly preached in the remote islands of Britain

[p] The history of monothelitism may be found in the Acts of the Synods of Rome, (tom. vii, p. 77-395, 601-608) and Constantinople, (p. 609-1429). Baronius extracted some original documents from the Vatican library; and his chronology is rectified by the diligence of Pagi. Even Dupin (Bibliotheque Eccles. tom. vi, p. 57-71) and Basnage (Hist. de l'Eglise, tom. i, p. 541-555) afford a tolerable abridgement.

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and Ireland,[q] the same ideas were entertained, or rather the same words were repeated, by all the Christians whose liturgy was performed in the Greek or the Latin tongue. Their numbers, and visible splendour, bestowed an imperfect claim to the appellation of catholics: but in the East, they were marked with the less honourable name of *Melchites* or royalists;[r] of men, whose faith, instead of resting on the basis of scripture, reason, or tradition, had been established, and was still maintained, by the arbitrary power of a temporal monarch. Their adversaries might allege the words of the

[q] In the Lateran synod of 679, Wilfrid, an Anglo-Saxon bishop subscribed pro omni aquilonali parte Britanniæ et Hiberniæ, quæ ab Anglorum et Brittonum, necnon Scotorum et Pictorum gentibus colebantur, (Eddius, in Vit. St. Wilfrid. c. 31, apud Pagi, Critica, tom. iii, p. 88). Theodore (magnæ insulæ Britanniæ archiepiscopus et philosophus) was long expected at Rome, (Concil. tom. vii, p. 714); but he contented himself with holding, (A. D. 680) his provincial synod of Hatfield, in which he received the decrees of Pope Martin and the first Lateran council against the Monothelites, (Concil. tom. vii, p. 597, &c.) Theodore, a monk of Tarsus in Cilicia, had been named to the primacy of Britain by Pope Vitalian, (A. D. 668, see Baronius and Pagi), whose esteem for his learning and piety was tainted by some distrust of his national character—ne quid contrarium veritati fidei, Græcorum more, in ecclesiam cui præsset introduceret. The Cicilian was sent from Rome to Canterbury under the tuition of an African guide, (Bedæ Hist. Eccles. Anglorum, l. iv, c. 1). He adhered to the Roman doctrine; and the same creed of the incarnation has been uniformly transmitted from Theodore to the modern primates, whose sound understandings is perhaps seldom engaged with that abstruse mystery.

[r] This name, unknown till the xth century, appears to be of Syriac origin. It was invented by the Jacobites, and eagerly adopted by the Nestorians and Mahometans; but it was accepted without shame by the catholics, and is frequently used in the Annals of Eutychius, (Asseman. Bibliot. Orient. tom. ii, p. 507, &c.; tom. iii, p. 355. Renaudot, Hist. Patriarch. Alexandrin. p. 119). Ἡμεις ὀρθοι του Βασιλεως, was the acclamation of the fathers of Constantinople, (Concil. tom. vii, p. 765).

fathers of Constantinople, who profess themselves the slaves of the king; and they might relate, with malicious joy, how the decrees of Chalcedon had been inspired and reformed by the emperor Marcian and his virgin bride. The prevailing faction will naturally inculcate the duty of submission, nor is it less natural that dissenters should feel and assert the principles of freedom. Under the rod of persecution, the Nestorians and Monophysites degenerated into rebels and fugitives; and the most ancient and useful allies of Rome were taught to consider the emperor not as the chief, but as the enemy of the Christians. Language, the leading principle which unites or separates the tribes of mankind, soon discriminated the sectaries of the East, by a peculiar and perpetual badge, which abolished the means of intercourse and the hope of reconciliation. The long dominion of the Greeks, their colonies, and, above all, their eloquence, had propagated a language doubtless the most perfect that has been contrived by the art of man. Yet the body of the people, both in Syria and Egypt, still persevered in the use of their national idioms; with this difference, however, that the Coptic was confined to the rude and illiterate peasants of the Nile, while the Syriac,[*]

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Perpetual separation of the oriental sects.

[*] The Syriac, which the natives revere as the primitive language, was divided into three dialects.—1. The Aramæan, as it was refined at Edessa and the cities of Mesopotamia. 2. The Palestine, which was used in Jerusalem, Damascus, and the rest of Syria. 3. The Nabathæan, the rustic idiom of the mountains of Assyria and the villages of Irak, (Gregor. Abulpharag. Hist. Dynast. p. 11). On the

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from the mountains of Assyria to the Red Sea, was adapted to the higher topics of poetry and argument. Armenia and Abyssinia were infected by the speech or learning of the Greeks; and their barbaric tongues, which had been revived in the studies of modern Europe, were unintelligible to the inhabitants of the Roman empire. The Syriac and the Coptic, the Armenian and the Ethiopic, are consecrated in the service of their respective churches; and their theology is enriched by domestic versions[t] both of the scriptures and of the most popular fathers. After a period of thirteen hundred and sixty years, the spark of controversy, first kindled by a sermon of Nestorius, still burns in the bosom of the East, and the hostile communions still maintain the faith and discipline of their founders. In the most abject state of ignorance, poverty, and servitude, the Nestorians and Monophysites reject the spiritual supremacy of Rome, and cherish the toleration of their Turkish masters, which allows them to anathematize, on the one hand, St Cyril and the synod of Ephesus; on the other, Pope Leo and the council of Chalcedon. The weight which they cast into the

Syriac, see Ebed. Jesu, Asseman. tom. iii, p. 326, &c.), whose prejudice alone could prefer it to the Arabic.

[t] I shall not enrich my ignorance with the spoils of Simon, Walton, Mill, Wetstein, Assemannus, Ludolphus, La Croze, whom I have consulted with some care. It appears, 1. That of all the versions which are celebrated by the fathers, it is doubtful whether any are now extant in their pristine integrity. 2. That the Syriac has the best claim; and that the consent of the oriental sects is a proof that it is more ancient than their schism.

downfal of the eastern empire demands our notice; and the reader may be amused with the various prospects of, I. The Nestorians. II. The Jacobites.[u] III. The Maronites. IV. The Armenians. V. The Copts; and, VI. The Abyssinians. To the three former, the Syriac is common; but of the latter, each is discriminated by the use of a national idiom. Yet the modern natives of Armenia and Abyssinia would be incapable of conversing with their ancestors; and the Christians of Egypt and Syria, who reject the religion, have adopted the language of the Arabians. The lapse of time has seconded the sacerdotal arts; and in the East, as well as in the West, the Deity is addressed in an obsolete tongue, unknown to the majority of the congregation.

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I. Both in his native and his episcopal province, the heresy of the unfortunate Nestorius was speedily obliterated. The oriental bishops, who at Ephesus had resisted to his face the arrogance of Cyril, were mollified by his tardy concessions. The same prelates, or their successors, subscribed, without a murmur, the decrees of Chalcedon: the power of the Monophysites reconciled them with the catholics in the conformity of passion, of interest, and in-

I. THE NESTORIANS.

[u] On the account of the Monophysites and Nestorians, I am deeply indebted to the Bibliotheca Orientalis Clementino-Vaticana of Joseph Simon Assemannus. That learned Maronite was dispatched in the year 1715, by Pope Clement XI. to visit the monasteries of Egypt and Syria in search of MSS. His four folio volumes, published at Rome in 1719-1728, contain a part only, though perhaps the most valuable, of his extensive project. As a native and as a scholar he possessed the Syriac literature; and, though a dependant of Rome, he wishes to be moderate and candid.

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sensibility of belief; and their last reluctant sigh was breathed in the defence of the three chapters. Their dissenting brethren, less moderate or more sincere, were crushed by the penal laws; and as early as the reign of Justinian, it became difficult to find a church of Nestorians within the limits of the Roman empire. Beyond those limits they had discovered a new world, in which they might hope for liberty, and aspire to conquest. In Persia, notwithstanding the resistance of the Magi, Christianity had struck a deep root, and the nations of the East reposed under its salutary shade. The *catholic*, or primate, resided in the capital: in *his* synods, and in *their* dioceses, his metropolitans, bishops, and clergy, represented the pomp and honour of a regular hierarchy: they rejoiced in the increase of proselytes, who were converted from the Zendavesta to the Gospel, from the secular to the monastic life; and their zeal was stimulated by the presence of an artful and formidable enemy. The Persian church had been founded by the missionaries of Syria; and their language, discipline, and doctrine, were closely interwoven with its original frame. The *catholics* were elected and ordained by their own suffragans; but their filial dependence on the patriarchs of Antioch is attested by the canons of the oriental church. [x] In the Persian school of Edes-

[x] See the Arabic canons of Nice in the translation of Abraham Ecchelensis, N°. 37, 38, 39, 40; Concil. tom. ii, p. 335, 336, edit. Venet. These vulgar titles, Nicene and Arabic, are both apocryphal. The council of Nice enacted no more than twenty canons, (Theo-

sa,[7] the rising generations of the faithful imbibed their theological idiom; they studied in the Syriac version the ten thousand volumes of Theodore of Mopsuestia, and they revered the apostolic faith and holy martyrdom of his disciple Nestorius, whose person and language were equally unknown to the nations beyond the Tigris. The first indelible lesson of Ibas, bishop of Edessa, taught them to execrate the *Egyptians*, who, in the synod of Ephesus, had impiously confounded the two natures of Christ. The flight of the masters and scholars, who were twice expelled from the Athens of Syria, dispersed a crowd of missionaries, inflamed by the double zeal of religion and revenge. And the rigid unity of the Monophysites, who, under the reigns of Zeno and Anastasius, had invaded the thrones of the East, provoked their antagonists, in a land of freedom, to avow a moral, rather than a physical union of the two persons of Christ. Since the first preaching of the gospel, the Sasanian kings beheld, with an eye of suspicion, a race of aliens and apostates,

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doret, Hist. Eccles. l. i, c. 8); and the remainder, seventy or eighty, were collected from the synods of the Greek church. The Syriac edition of Maruthas is no longer extant, (Asseman. Bibliot. Oriental. tom. i, p. 195; tom. iii, p. 74), and the Arabic version is marked with many recent interpolations. Yet this code contains many curious relicts of ecclesiastical discipline; and since it is equally revered by all the eastern communions, it was probably finished before the schism of the Nestorians and Jacobites, (Fabric. Bibliot. Græc. tom. xi, p. 369-367.

[7] Theodore the reader (l. ii, c. 5, 49, ad calcem Hist. Eccles.) has noticed this Persian school of Edessa. Its ancient splendour, and the two eras of its downfal, (A. D. 431 and 489), are clearly discussed by Assemanni, (Biblioth. Orient. tom. ii, p. 402; iii, p. 376, 378; iv, p. 70, 924).

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who had embraced the religion, and who might favour the cause, of the hereditary foes of their country. The royal edicts had often prohibited their dangerous correspondence with the Syrian clergy; the progress of the schism was grateful to the jealous pride of Perozes; and he listened to the eloquence of an artful prelate, who painted Nestorius as the friend of Persia, and urged him to secure the fidelity of his Christian subjects, by granting a just preference to the victims and enemies of the Roman tyrant. The Nestorians composed a large majority of the clergy and people: they were encouraged by the smile, and armed with the sword of despotism; yet many of their weaker brethren were startled at the thought of breaking loose from the communion of the Christian world, and the blood of seven thousand seven hundred Monophysites or catholics, confirmed the uniformity of faith and discipline in the churches of Persia.[z] Their ecclesiastical institutions are distinguished by a liberal principle of reason, or at least of policy: the austerity of the cloister was relaxed and gradually forgotten; houses of charity were endowed for the education of orphans and foundlings; the law of celibacy, so forcibly recommended to the Greeks and Latins, was disregarded by the Persian clergy; and the number of the elect

sole masters of Persia, A. D. 500, &c.

[z] A dissertation on the state of the Nestorians has swelled in the hands of Assemanni to a folio volume of 950 pages, and his learned researches are digested in the most lucid order. Besides this ivth volume of the Bibliotheca Orientalis, the extracts in the three preceding tomes (tom. i. p. 203; ii. p. 321—463; iii, 64-70, 378-395, &c. 403-408, 580-589) may be usefully consulted.

was multiplied by the public and reiterated nuptials of the priests, the bishops, and even the patriarch himself. To this standard of natural and religious freedom, myriads of fugitives resorted from all the provinces of the eastern empire: the narrow bigotry of Justinian was punished by the emigration of his most industrious subjects; they transported into Persia the arts both of peace and war: and those who deserved the favour, were promoted in the service, of a discerning monarch. The arms of Nushirvan, and his fiercer grandson, were assisted with advice, and money, and troops, by the desperate sectaries who still lurked in their native cities of the East: their zeal was rewarded with the gift of the catholic churches; but when those cities and churches were recovered by Heraclius, their open profession of treason and heresy compelled them to seek a refuge in the realm of their foreign ally. But the seeming tranquillity of the Nestorians was often endangered, and sometimes overthrown. They were involved in the common evils of oriental despotism: their enmity to Rome could not always atone for their attachment to the gospel: and a colony of three hundred thousand Jacobites, the captives of Apamea and Antioch, were permitted to erect an hostile altar in the face of the *catholic*, and in the sunshine of the court. In his last treaty, Justinian introduced some conditions which tended to enlarge and fortify the toleration of Christianity in Persia. The emperor, ignorant of the rights of conscience, was incapable of

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pity or esteem for the heretics who denied the authority of the holy synods: but he flattered himself that they would gradually perceive the temporal benefits of union with the empire and the church of Rome; and if he failed in exciting their gratitude, he might hope to provoke the jealousy of their sovereign. In a later age, the Lutherans have been burnt at Paris and protected in Germany, by the superstition and policy of the most Christian king.

Their missions in Tartary, India, China, &c. A. D. 500-1200.

The desire of gaining souls for God, and subjects for the church, has excited in every age the diligence of the Christian priests. From the conquest of Persia they carried their spiritual arms to the north, the east, and the south; and the simplicity of the gospel was fashioned and painted with the colours of the Syriac theology. In the sixth century, according to the report of a Nestorian traveller,* Christianity was successfully preached to the Bactrians, the Huns, the Persians, the Indians,

* See the Topographia Christiana of Cosmas, surnamed Indicopleustes, or the Indian navigator, l. iii, p. 178, 179; l. xi, p. 337.—The entire work, of which some curious extracts may be found in Photius, (Cod. xxxvi, p. 9, 10, edit. Hoeschel); Thevenot. (in the 1st Part of his Relations des Voyages, &c.), and Fabricius, (Bibliot. Græc. l. iii, c. 25, tom. ii, p. 603-617), has been published by Father Montfaucon at Paris 1707, in the Nova Collectio Patrum, (tom. ii, p. 113-346). It was the design of the author to confute the impious heresy of those who maintain that the earth is a globe, and not a flat oblong table, as is represented in the Scriptures, (l. ii, p. 138). But the nonsense of the monk is mingled with the practical knowledge of the traveller, who performed his voyage A. D. 522, and published his book at Alexandria, A. D. 547, (l. ii, p. 140, 141; Montfaucon, Præfat. c. 2). The Nestorianism of Cosmas, unknown to his learned editor, was detected by La Croze, (Christianisme des Indes, tom. i, p. 40-55), and is confirmed by Assemanni, (Bibliot. Orient. tom. iv, p. 605, 606).

the Persarmenians, the Medes, and the Elamites: the barbaric churches, from the gulf of Persia to the Caspian sea, were almost infinite; and their recent faith was conspicuous in the number and sanctity of their monks and martyrs. The pepper coast of Malabar, and the isles of the ocean, Socotora and Ceylan, were peopled with an increasing multitude of Christians, and the bishops and clergy of those sequestered regions derived their ordination from the catholic of Babylon. In a subsequent age, the zeal of the Nestorians overleaped the limits which had confined the ambition and curiosity both of the Greeks and Persians. The missionaries of Balch and Samarcand pursued without fear the footsteps of the roving Tartar, and insinuated themselves into the camps of the valleys of Imaus and the banks of the Selinga. They exposed a metaphysical creed to those illiterate shepherds: to those sanguinary warriors, they recommended humanity and repose. Yet a khan, whose power they vainly magnified, is said to have received at their hands the rites of baptism, and even of ordination; and the fame of *Prester* or *Presbyter* John [b] has long amused the credulity of Europe. The royal convert was indulged in CHAP. XLVII.

[b] In its long progress to Mosul, Jerusalem, Rome, &c. the story of Prester John evaporated in a monstrous fable, of which some features have been borrowed from the Lama of Thibet, (Hist. Genealogique des Tartares, p. ii, p. 42; Hist. de Gengiscan, p. 31, &c.), and were ignorantly transferred by the Portuguese to the emperor of Abyssinia, (Ludolph. Hist. Æthiop. Comment. l. ii, c. 1). Yet it is probable that in the xith and xiith centuries, Nestorian Christianity was professed in the horde of Keraites, (d'Herbelot, p. 256, 915, 959; Assemanni, tom. iv, p. 468-501).

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the use of a portable altar; but he dispatched an embassy to the patriarch, to inquire how, in the season of Lent, he should abstain from animal food, and how he might celebrate the Eucharist in a desert that produced neither corn nor wine. In their progress by sea and land, the Nestorians entered China by the port of Canton and the northern residence of Sigan. Unlike the senators of Rome, who assumed with a smile the characters of priests and augurs, the mandarins, who affect in public the reason of philosophers, are devoted in private to every mode of popular superstition. They cherished and they confounded the gods of Palestine and of India; but the propagation of Christianity awakened the jealousy of the state, and after a short vicissitude of favour and persecution, the foreign sect expired in ignorance and oblivion.[c] Under the reign of the caliphs, the Nestorian church was diffused from China to Jerusalem and Cyprus; and their numbers, with those of the Jacobites, were computed to surpass the Greek and Latin communions.[d] Twenty-five metropolitans or archbishops com-

[c] The Christianity of China, between the viiith and xiiith century, is invincibly proved by the consent of Chinese, Arabian, Syriac, and Latin evidence, (Assemanni, Biblioth. Orient. tom. iv, p. 502-552; Mem. de l'Academie des Inscript. tom. xxx, p. 802-819). The inscription of Siganfu, which describes the fortunes of the Nestorian church, from the first mission, A. D. 636, to the current year 781, is accused of forgery by La Croze, Voltaire, &c. who become the dupes of their own cunning, while they are afraid of a jesuitical fraud.

[d] Jacobitæ et Nestorianæ plures quam Græci et Latini. Jacob a Vitriaco, Hist. Hierosol. l. ii, c. 76, p. 1093, in the Gesta Dei per Francos. The numbers are given by Thomassin, Discipline de l'Eglise, tom. i, p. 172.

posed their hierarchy, but several of these were dispensed, by the distance and danger of the way, from the duty of personal attendance, on the easy condition that every six years they should testify their faith and obedience to the *catholic* or patriarch of Babylon, a vague appellation, which has been successively applied to the royal seats of Seleucia, Ctesiphon, and Bagdad. These remote branches are long since withered, and the old patriarchal trunk [e] is now divided by the *Elijahs* of Mosul, the representatives, almost in lineal descent, of the genuine and primitive succession, the *Josephs* of Amida, who are reconciled to the church of Rome, [f] and the *Simeons* of Van or Ormia, whose revolt, at the head of forty thousand families, was promoted in the sixteenth century by the Sophists of Persia. The number of three hundred thousand is allowed for the whole body of the Nestorians, who, under the name of Chaldeans or Assyrians, are confounded with the most learned or the most powerful nation of eastern antiquity.

The Christians of St Thomas in India, A. D. 883.

According to the legend of antiquity, the gospel was preached in India by St Thomas. [g]

[e] The division of the patriarchate may be traced in the Bibliotheca Orient. of Assemanni, tom. i, p. 523-549; tom. ii, p. 457, &c.; tom. iii, p. 603, p. 621-623; tom. iv, p. 161-169, p. 423, p. 622-629, &c.

[f] The pompous language of Rome, on the submission of a Nestorian patriarch, is elegantly represented in the viith book of Fra-Paolo, Babylon, Nineveh, Arbela, and the trophies of Alexander, Tauris, and Ecbatana, the Tigris and Indus.

[g] The Indian missionary St Thomas, an apostle, a Manichæan, or an Armenian merchant, (La Croze, Christianisme des Indes, tom. i, p. 57-70), was famous, however, as early as the time of Jerome, (ad

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At the end of the ninth century, his shrine, perhaps in the neighbourhood of Madras, was devoutly visited by the ambassadors of Alfred, and their return with a cargo of pearls and spices rewarded the zeal of the English monarch, who entertained the largest projects of trade and discovery.[h] When the Portuguese first opened the navigation of India, the Christians of St Thomas had been seated for ages on the coast of Malabar, and the difference of their character and colour attested the mixture of a foreign race. In arms, in arts, and possibly in virtue, they excelled the natives of Hindostan: the husbandmen cultivated the palm-tree, the merchants were enriched by the pepper-trade, the soldiers preceded the *nairs* or nobles of Malabar, and their hereditary privileges were respected by the gratitude or the fear of the king of Cochin and the Zamorin himself. They acknowledged a Gentoo sovereign, but they were governed, even in temporal concerns, by the

Marcellum epist. 148). Marco Polo was informed on the spot that he suffered martyrdom in the city of Malabar, or Meliapour, a league only from Madras, (d'Anville, Ecclaircissemens sur l'Inde, p. 125), where the Portuguese founded an episcopal church under the name of St Thomé, and where the saint performed an annual miracle, till he was silenced by the profane neighbourhood of the English, (La Croze, tom. ii, p. 7-16).

[h] Neither the author of the Saxon Chronicle, (A. D. 883), nor William of Malmesbury, de Gestis Regum Angliæ, l. ii, c. 4, p. 44), were capable, in the twelfth century, of inventing this extraordinary fact; they are incapable of explaining the motives and measures of Alfred; and their hasty notice serves only to provoke our curiosity. William of Malmesbury feels the difficulty of the enterprise, quod quivis in hoc seculo miretur; and I almost suspect that the English ambassadors collected their cargo and legend in Egypt. The royal author has not enriched his Orosius (see Barrington's Miscellanies) with an Indian as well as a Scandinavian voyage.

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bishop of Angamala. He still asserted his ancient title of metropolitan of India, but his real jurisdiction was exercised in fourteen hundred churches, and he was intrusted with the care of two hundred thousand souls. Their religion would have rendered them the firmest and most cordial allies of the Portuguese, but the inquisitors soon discerned in the Christians of St Thomas, the unpardonable guilt of heresy and schism. Instead of owning themselves the subjects of the Roman pontiff, the spiritual and temporal monarch of the globe, they adhered, like their ancestors, to the communion of the Nestorian patriarch; and the bishops whom he ordained at Mosul, traversed the dangers of the sea and land to reach their diocese on the coast of Malabar. In their Syriac liturgy, the names of Theodore and Nestorius were piously commemorated: they united their adoration of the two persons of Christ; the title of Mother of God was offensive to their ear, and they measured with scrupulous avarice the honours of the Virgin Mary, whom the superstition of the Latins had *almost* exalted to the rank of a goddess. When her image was first presented to the disciples of St Thomas, they indignantly exclaimed, "We are Christians, not idolaters!" and their simple devotion was content with the veneration of the cross. Their separation from the western world had left them in ignorance of the improvements or corruptions of a thousand years; and their conformity with the faith and practice of the fifth century, would equally disappoint the prejudices of a papist or a protes-

A. D. 1500, &c.

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tant. It was the first care of the ministers of Rome to intercept all correspondence with the Nestorian patriarch, and several of his bishops expired in the prisons of the holy office. The flock, without a shepherd, was assaulted by the power of the Portuguese, the arts of the Jesuits, and the zeal of Alexes de Menezes, archbishop of Goa, in his personal visitation of the coast of Malabar. The synod of Diamper, at which he presided, consummated the pious work of the reunion, and rigorously imposed the doctrine and discipline of the Roman church, without forgetting auricular confession, the strongest engine of ecclesiastical torture. The memory of Theodore and Nestorius was condemned, and Malabar was reduced under the dominion of the pope, of the primate, and of the Jesuits, who invaded the see of Angamala or Cranganor. Sixty years of servitude and hypocrisy were patiently endured; but as soon as the Portuguese empire was shaken by the courage and industry of the Dutch, the Nestorians asserted, with vigour and effect, the religion of their fathers. The Jesuits were incapable of defending the power which they had abused: the arms of forty thousand Christians were pointed against their falling tyrants: and the Indian archdeacon assumed the character of bishop, till a fresh supply of episcopal gifts and Syriac missionaries could be obtained from the patriarch of Babylon. Since the expulsion of the Portuguese, the Nestorian creed is freely professed on the coast of Malabar. The trading companies of Holland and England are the

A.D. 1599-1663.

friends of toleration; but if oppression be less mortifying than contempt, the Christians of St Thomas have reason to complain of the cold and silent indifference of their brethren of Europe. [i] CHAP. XLVII.

II. The history of the Monophysites is less copious and interesting than that of the Nestorians. Under the reigns of Zeno and Anastasius, their artful leaders surprised the ear of the prince, usurped the thrones of the East, and crushed on its native soil the school of the Syrians. The rule of the Monophysite faith was defined with exquisite discretion by Severus, patriarch of Antioch: he condemned, in the style of the Henoticon, the adverse heresies of Nestorius and Eutyches, maintained against the latter the reality of the body of Christ, and constrained the Greeks to allow that he was a liar who spoke truth. [k] But the approximation of ideas could not abate the vehemence of passion; each party was the more astonished that their blind antagonist could dispute on so tri- II. THE JACOBITES.

[i] Concerning the Christians of St Thomas, see Assemannus, Biblioth. Orient. tom. iv, p. 391-407, 435-451; Geddes's Church History of Malabar; and, above all, La Croze, Histoire du Christianisme des Indes, in two vols. 12mo, La Haye, 1758, a learned and agreeable work. They have drawn from the same source, the Portuguese and Italian narratives; and the prejudices of the Jesuits are sufficiently corrected by those of the Protestants.

[k] Οιον εικειν ψευδολογῃς is the expression of Theodore in his treatise of the Incarnation, p. 245, 247, as he is quoted by La Croze, (Hist. du Christianisme d'Ethiope et d'Armenie, p. 35), who exclaims, perhaps too hastily, "Quel pitoyable raisonnement!" Renaudot has touched (Hist. Patriarch. Alex. p. 127-138) the oriental accounts of Severus: and his authentic creed may be found in the epistle of John the Jacobite, patriarch of Antioch, in the tenth century, to his brother Mennas of Alexandria, (Asseman. Bibliot. Orient tom. ii, p. 132-141).

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fling a difference; the tyrant of Syria enforced the belief of his creed, and his reign was polluted with the blood of three hundred and fifty monks, who were slain, not perhaps without provocation or resistance, under the walls of Apamea.[l] The successor of Anastasius replanted the orthodox standard in the East; Severus fled into Egypt; and his friend, the eloquent Xenaias,[m] who had escaped from the Nestorians of Persia, was suffocated in his exile by the Melchites of Paphlagonia. Fifty-four bishops were swept from their thrones, eight hundred ecclesiastics were cast into prison,[n] and notwithstanding the ambiguous favour of Theodora, the oriental flocks, deprived of their shepherds, must insensibly have been either famished or poisoned. In this spiritual distress, the expiring faction was revived, and united, and perpetuated, by the labours of a monk; and the name of James Baradæus[o] has

A. D. 518.

[l] Epist. Archimandritarum et Monachorum Syriæ Secundæ ad Papam Hormisdam, Concil. tom. v, p. 598 602. The courage of St Sabas, ut leo animosus, will justify the suspicion that the arms of these monks were not always spiritual or defensive, (Baronius, A. D. 513, N°. 7, &c).

[m] Assemanni, (Bibliot. Orient. tom. ii, p. 10-46), and La Croze, (Christianisme d'Ethiope, p. 36-40), will supply the history of Xenaias or Philoxenus, bishop of Mabug, or Hierapolis, in Syria. He was a perfect master of the Syriac language, and the author or editor of a version of the New Testament.

[n] The names and titles of fifty four bishops, who were exiled by Justin, are preserved in the Chronicle of Dionysius, (apud Asseman. tom. ii, p. 54). Severus was personally summoned to Constantinople —for his trial, says Liberatus, (Brev. c. 19)—that his tongue might be cut out, says Evagrius, (l. iv, c. 4). The prudent patriarch did not stay to examine the difference. This ecclesiastical revolution is fixed by Pagi at the month of September of the year 518, (Critica, tom. ii, p. 516).

[o] The obscure history of James, or Jacobus Baradæus, or Zan-

been preserved in the appellation of *Jacobites*, a familiar sound, which may startle the ear of an English reader. From the holy confessors in their prison of Constantinople, he received the powers of bishop of Edessa and apostle of the East, and the ordination of fourscore thousand bishops, priests, and deacons, is derived from the same inexhaustible source. The speed of the zealous missionary was promoted by the fleetest dromedaries of a devout chief of the Arabs; the doctrine and discipline of the Jacobites were secretly established in the dominions of Justinian; and each Jacobite was compelled to violate the laws and to hate the Roman legislator. The successors of Severus, while they lurked in convents or villages, while they sheltered their proscribed heads in the caverns of hermits, or the tents of the Saracens, still asserted, as they now assert, their indefeasible right to the title, the rank, and the prerogatives of the patriarch of Antioch: under the milder yoke of the infidels, they reside about a league from Merdin, in the pleasant monastery of Zapharan, which they have embellished with cells, aqueducts, and plantations. The secondary, though honourable, place is filled by the *maphrian*, who in his station at Mosul itself, defies the Nestorian *catholic*, with whom he contests the supremacy of the East. Under the CHAP. XLVII.

zalus, may be gathered from Eutychius, (Annal. tom. ii, p. 141, 147); Renaudot, (Hist. Patriarch. Alex. p. 133), and Assemannus, (Bibliot. Orient. tom. i, p. 424; tom. ii, p. 62-69, 321-332, p. 414; tom. iii, p. 385-388). He seems to be unknown to the Greeks. The Jacobites themselves had rather deduce their name and pedigree from St James the apostle.

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patriarch and the maphrian, one hundred and fifty archbishops and bishops have been counted in the different ages of the Jacobite church; but the order of the hierarchy is relaxed or dissolved, and the greater part of their dioceses is confined to the neighbourhood of the Euphrates and the Tigris. The cities of Aleppo and Amida, which are often visited by the patriarch, contain some wealthy merchants and industrious mechanics, but the multitude derive their scanty sustenance from their daily labour: and poverty, as well as superstition, may impose their excessive fasts,—five annual lents, during which both the clergy and laity abstain not only from flesh or eggs, but even from the taste of wine, of oil, and of fish. Their present numbers are esteemed from fifty to fourscore thousand souls, the remnant of a populous church, which has gradually decreased under the oppression of twelve centuries. Yet in that long period, some strangers of merit have been converted to the Monophysite faith, and a Jew was the father of Abulpharagius,[p] primate of the East, so truly eminent both in his life and death. In his life, he was an elegant writer of the Syriac and Arabic tongues, a poet, physician, and historian, a subtile philosopher, and a moderate divine. In his death, his funeral was attended by his rival the Nestorian patriarch, with a train of Greeks and Armenians, who forgot their dis-

[p] The account of his person and writings is perhaps the most curious article in the Bibliotheca of Assemannus, (tom. ii, p. 244-321, under the name of Gregorius Bar-Hebræus). La Croze (Christianisme d'Ethiope, p. 53-63) ridicules the prejudice of the Spaniards against the Jewish blood, which secretly defiles their church and state.

putes, and mingled their tears over the grave of an enemy. The sect which was honoured by the virtues of Abulpharagius appears, however, to sink below the level of their Nestorian brethren. The superstition of the Jacobites is more abject, their fasts more rigid,[q] their intestine divisions are more numerous, and their doctors (as far as I can measure the degrees of nonsense) are more remote from the precincts of reason. Something may possibly be allowed for the rigour of the Monophysite theology; much more for the superior influence of the monastic order. In Syria, in Egypt, in Ethiopia, the Jacobite monks have ever been distinguished by the austerity of their penance and the absurdity of their legends. Alive or dead they are worshipped as the favourites of the Deity; the crosier of bishop and patriarch is reserved for their venerable hands; and they assume the government of men, while they are yet reeking with the habits and prejudices of the cloister.[r] CHAP. XLVII.

III. In the style of the oriental Christians, the Monothelites of every age are described under the appellation of *Maronites*,[s] a name III. THE MARONITES.

[q] This excessive abstinence is censured by La Croze, (p. 352), and even by the Syrian Assemannus, tom. i, p. 226; tom. ii, p. 304, 305.

[r] The state of the Monophysites is excellently illustrated in a dissertation at the beginning of the second volume of Assemannus, which contains 142 pages. The Syriac Chronicle of Gregory Bar-Hebræus, or Abulpharagius, (Bibliot. Orient. tom. ii, p. 321-463), pursues the double series of the Nestorian catholics, and the maphrians of the Jacobites.

[s] The synonymous use of the two words may be proved from Eutychius, (Annal. tom. ii, p. 191, 207, 332); and many similar passages which may be found in the methodical table of Pocock. He

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which has been insensibly transferred from an hermit to a monastery, from a monastery to a nation. Maron, a saint or savage of the fifth century, displayed his religious madness in Syria; the rival cities of Apamea and Emesa disputed his relics, a stately church was erected on his tomb, and six hundred of his disciples united their solitary cells on the banks of the Orontes. In the controversies of the incarnation, they nicely threaded the orthodox line between the sects of Nestorius and Eutyches; but the unfortunate question of *one will* or operation in the two natures of Christ was generated by their curious leisure. Their proselyte, the emperor Heraclius, was rejected as a Maronite from the walls of Emesa; he found a refuge in the monastery of his brethren; and their theological lessons were repaid with the gift of a spacious and wealthy domain. The name and doctrine of this venerable school were propagated among the Greeks and Syrians, and their zeal is expressed by Macarius patriarch of Antioch, who declared before the synod of Constantinople, that sooner than subscribe the *two wills* of Christ, he would submit to be hewn piece-meal and cast into the sea.[t] A similar or a less cruel mode of persecution soon converted the unresisting subjects of the plain, while the glorious title of *Mardaites*,[u]

was not actuated by any prejudice against the Maronites of the xth century; and we may believe a Melchite, whose testimony is confirmed by the Jacobites and Latins.

[t] Concil. tom. vii, p. 780. The Monothelite cause was supported with firmness and subtlety by Constantine, a Syrian priest of Apamea, (p. 1040, &c.).

[u] Theophanes, (Chron. p. 295, 296, 300, 302, 306), and Cedrenus,

or rebels, was bravely maintained by the hardy natives of mount Libanus. John Maron, one of the most learned and popular of the monks, assumed the character of patriarch of Antioch; his nephew Abraham, at the head of the Maronites, defended their civil and religious freedom against the tyrants of the East. The son of the orthodox Constantine pursued, with pious hatred, a people of soldiers, who might have stood the bulwark of his empire against the common foes of Christ and of Rome. An army of Greeks invaded Syria; the monastery of St Maron was destroyed with fire; the bravest chieftains were betrayed and murdered, and twelve thousand of their followers were transplanted to the distant frontiers of Armenia and Thrace. Yet the humble nation of the Maronites has survived the empire of Constantinople, and they still enjoy, under their Turkish masters, a free religion and a mitigated servitude. Their domestic governors are chosen among the ancient nobility; the patriarch, in his monastery of Canobin, still fancies himself on the throne of Antioch; nine bishops compose his synod, and one hundred and fifty priests, who retain the liberty of marriage, are intrusted with the care of one hundred thousand souls. Their country extends from the ridge of mount Libanus to the shores of Tripoli; and the gra-

p. 137, 140), relates the exploits of the Mardaites: the name (Mard, in Syriac rebellavit) is explained by La Roque, (Voyage de la Syrie, tom. ii, p. 73); the dates are fixed by Pagi, (A. D. 676, N°. 4-14; A. D. 685, N°. 3, 4); and even the obscure story of the patriarch John Maron (Asseman. Bibliot. Orient. tom. i, p. 496-520) illustrates, from the year 686 to 707, the troubles of mount Libanus.

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dual descent affords, in a narrow space, each variety of soil and climate, from the Holy Cedars, erect under the weight of snow,[x] to the vine, the mulberry, and the olive trees of the fruitful valley. In the twelfth century, the Maronites, abjuring the Monothelite error, were reconciled to the Latin churches of Antioch and Rome,[y] and the same alliance has been frequently renewed by the ambition of the popes and the distress of the Syrians. But it may reasonably be questioned, whether their union has ever been perfect or sincere; and the learned Maronites of the college of Rome have vainly laboured to absolve their ancestors from the guilt of heresy and schism.[z]

[x] In the last century twenty large cedars still remained, (Voyage de la Roque, tom. i, p. 68-76); at present they are reduced to four or five, (Volney, tom. i, p. 264). These trees, so famous in scripture, were guarded by excommunication; the wood was sparingly borrowed for small crosses, &c.; an annual mass was chanted under their shade; and they were endowed by the Syrians with a sensitive power of erecting their branches to repel the snow, to which mount Libanus is less faithful than it is painted by Tacitus; inter ardores opacum fidumque nivibus—a daring metaphor. (Hist. v, 6).

[y] The evidence of William of Tyre (Hist. in Gestis Dei per Francos, l. xxii, c. 8, p. 1022) is copied or confirmed by Jacques de Vitra, (Hist. Hierosolym. l. ii, c. 77, p. 1093, 1094). But this unnatural league expired with the power of the Franks; and Abulpharagius (who died in 1286) considers the Maronites as a sect of Monothelites, (Bibliot. Orient. tom. ii, p. 292).

[z] I find a description and history of the Maronites in the Voyage de la Syrie et du Mont Liban par la Roque, (2 vols. in 12mo, Amsterdam, 1723; particularly tom. i, p. 42-47, p. 174-184; tom. ii. p. 10-120). In the ancient part, he copies the prejudices of Nairon and the other Maronites of Rome, which Assemannus is afraid to renounce, and ashamed to support. Jablonski, (Institut. Hist. Christ. tom. iii, p. 186), Niebuhr, (Voyage de l'Arabie, &c. tom. ii, p. 316, 370-381), and, above all, the judicious Volney, (Voyage en Egypte et en Syrie, tom. ii, p. 8-81, Paris, 1787), may be consulted.

IV. ARMENIANS.

IV. Since the age of Constantine, the ARMENIANS[a] had signalized their attachment to the religion and empire of the Christians. The disorders of their country, and their ignorance of the Greek tongue, prevented their clergy from assisting at the synod of Chalcedon, and they floated eighty-four years,[b] in a state of indifference or suspense till their vacant faith was finally occupied by the missionaries of Julian of Halicarnassus,[c] who in Egypt, their common exile, had been vanquished by the arguments or the influence of his rival Severus, the Monophysite patriarch of Antioch. The Armenians alone are the pure disciples of Eutyches, an unfortunate parent, who has been renounced by the greater part of his spiritual progeny. They alone persevere in the opinion, that the manhood of Christ was created, or existed without creation, of a divine and incorruptible substance. Their adversaries reproach them with the adoration of a phantom; and they retort the accusation, by deriding or execrating the

[a] The religion of the Armenians is briefly described by La Croze, (Hist. du Christ. de l'Ethiope et de l'Armenie, p. 269-402). He refers to the great Armenian History of Galanus, 3 vols. in folio, Rome, 1650-1661), and commends the state of Armenia in the third volume of the Nouveaux Memoires des Missions du Levant. The work of a Jesuit must have sterling merit when it is praised by La Croze.

[b] The schism of the Armenians is placed 84 years after the council of Chalcedon, (Pagi, Critica, ad A. D. 535. It was consummated at the end of seventeen years; and it is from the year of Christ 552 that we date the era of the Armenians, (*l'Art de verifier les* Dates, p. xxxv).

[c] The sentiments and success of Julian of Halicarnassus may be seen in Liberatus, (*Brev.* c. 19); Renaudot, (*Hist. Patriarch. Alex.* p. 132-303), and Assemannus, (Bibliot. Orient. tom. ii, Dissertat. de Monophysitis, c. viii, p. 386).

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blasphemy of the Jacobites, who impute to the Godhead the vile infirmities of the flesh, even the natural effects of nutrition and digestion. The religion of Armenia could not derive much glory from the learning or the power of its inhabitants. The royalty expired with the origin of their schism, and their Christian kings, who arose and fell in the thirteenth century on the confines of Cilicia, were the clients of the Latins and the vassals of the Turkish sultan of Iconium. The helpless nation has seldom been permitted to enjoy the tranquillity of servitude. From the earliest period to the present hour, Armenia has been the theatre of perpetual war; the lands between Tauris and Erivan were dispeopled by the cruel policy of the Sophies; and myriads of Christian families were transplanted, to perish or to propagate in the distant provinces of Persia. Under the rod of oppression, the zeal of the Armenians is fervent and intrepid: they have often preferred the crown of martyrdom to the white turban of Mahomet; they devoutly hate the error and idolatry of the Greeks; and their transient union with the Latins is not less devoid of truth, than the thousand bishops whom their patriarch offered at the feet of the Roman pontiff.[d] The *catholic* or patriarch of the Armenians resides in the monastery of Ekmiasin, three leagues from Erivan. Forty-seven archbishops, each of whom may claim the obedience of four or five suffragans, are

[d] See a remarkable fact of the xiith century in the History of Nicetas Choniates, (p. 258). Yet three hundred years before, Photius (Epistol. ii. p. 49, edit. Montacut) had gloried in the conversion of the Armenians—λατρευει σημειον ορθοδοξως.

consecrated by his hand; but the far greater part are only titular prelates, who dignify with their presence and service the simplicity of his court. As soon as they have performed the liturgy, they cultivate the garden; and our bishops will hear with surprise, that the austerity of their life increases in just proportion to the elevation of their rank. In the fourscore thousand towns or villages of his spiritual empire, the patriarch receives a small and voluntary tax from each person above the age of fifteen; but the annual amount of six hundred thousand crowns is insufficient to supply the incessant demands of charity and tribute. Since the beginning of the last century, the Armenians have obtained a large and lucrative share of the commerce of the East: in their return from Europe, the caravan usually halts in the neighbourhood of Erivan; the altars are enriched with the fruits of their patient industry; and the faith of Eutyches is preached in their recent congregations of Barbary and Poland.[c]

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V. In the rest of the Roman empire, the despotism of the prince might eradicate or silence the sectaries of an obnoxious creed. But the stubborn temper of the Egyptians maintained their opposition to the synod of Chalcedon, and the policy of Justinian condescended

V. THE COPTS OF EGYPTIANS.

[c] The travelling Armenians are in the way of every traveller, and their mother church is on the high road between Constantinople and Ispahan: for their present state, see Fabricius, (Lux Evangelii, &c. c. xxxviii, p. 40-51); Olearius, (l. iv, c. 10; Chardin, (vol. ii, p. 232); Tournefort, (lettre xx), and, above all, Tavernier, (tom. i, p. 28-37, 510-518), that rambling jeweller, who had read nothing, but had seen so much and so well.

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to expect and to seize the opportunity of discord. The Monophysite church of Alexandria[f] was torn by the disputes of the *corruptibles* and *incorruptibles*; and on the death of the patriarch, the two factions upheld their respective candidates.[g] Gaian was the disciple of Julian, Theodosius had been the pupil of Severus: the claims of the former were supported by the consent of the monks and senators, the city and the province; the latter depended on the priority of his ordination, the favour of the empress Theodora, and the arms of the eunuch Narses, which might have been used in more honourable warfare. The exile of the popular candidate to Carthage and Sardinia inflamed the ferment of Alexandria; and after a schism of one hundred and seventy years, the *Gaianites* still revered the memory and doctrine of their founder. The strength of numbers and of discipline was tried in a desperate and bloody conflict; the streets were filled with the dead bodies of citizens and soldiers; the pious women, ascending the roofs of their houses, showered down every sharp or ponderous utensil on the heads of the enemy; and the final victory of Narses was owing to the flames, with which he wasted the third capital of the Roman world. But the lieutenant of Justinian had not conquered in the cause of an heretic; Theodosius himself was speedily, though gently removed;

The patriarch Theodosius, A. D. 537-568.

[f] The history of the Alexandrian patriarchs, from Dioscorus to Benjamin, is taken from Renaudot, (p. 114-164), and the second tome of the Annals of Eutychius.

[g] Liberat. Brev. c. 20-23. Victor. Chron. p. 329-330. Procop. Anecdot. c. 26-27.

and Paul of Tanis, an orthodox monk, was raised to the throne of Athanasius. The powers of government were strained in his support; he might appoint or displace the dukes and tribunes of Egypt; the allowance of bread which Diocletian had granted, was suppressed, the churches were shut, and a nation of schismatics was deprived at once of their spiritual and carnal food. In his turn, the tyrant was excommunicated by the zeal and revenge of the people; and none except his servile Melchites would salute him as a man, a Christian, or a bishop. Yet such is the blindness of ambition, that when Paul was expelled on a charge of murder, he solicited, with a bribe of seven hundred pounds of gold, his restoration to the same station of hatred and ignominy. His successor Apollinaris entered the hostile city in military array, alike qualified for prayer or for battle. His troops, under arms, were distributed through the streets; the gates of the cathedral were guarded, and a chosen band was stationed in the choir, to defend the person of their chief. He stood erect on his throne, and throwing aside the upper garment of a warrior, suddenly appeared before the eyes of the multitude in the robes of Patriarch of Alexandria. Astonishment held them mute; but no sooner had Apollinaris begun to read the tome of St Leo, than a volley of curses, and invectives, and stones, assaulted the odious minister of the emperor and the synod. A charge was instantly sounded by the successor of the apostles; the soldiers waded to their

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Paul. A. D. 538.

Apollinaris. A. D. 551

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knees in blood; and two hundred thousand Christians are said to have fallen by the sword; an incredible account, even if it be extended from the slaughter of a day to the eighteen years of the reign of Apollinaris. Two succeeding patriarchs, Eulogius [h] and John, [i] laboured in the conversion of heretics, with arms and arguments more worthy of their evangelical profession. The theological knowledge of Eulogius was displayed in many a volume, which magnified the errors of Eutyches and Severus, and attempted to reconcile the ambiguous language of St Cyril with the orthodox creed of Pope Leo and the fathers of Chalcedon. The bounteous alms of John the eleemosynary were dictated by superstition, or benevolence, or policy. Seven thousand five hundred poor were maintained at his expence; on his accession, he found eight thousand pounds of gold in the treasury of the church; he collected ten thousand from the liberality of the faithful; yet the primate could boast in his testament, that he left behind him no more than the third part of the smallest of the silver coins. The churches of Alexandria were

Eulogius, A. D. 580.

John, A. D. 609.

[h] Eulogius, who had been a monk of Antioch, was more conspicuous for subtlety than eloquence. He proves that the enemies of the faith, the Gaianites and Theodosians, ought not to be reconciled; that the same proposition may be orthodox in the mouth of St Cyril, heretical in that of Severus; that the opposite assertions of St Leo are equally true, &c. His writings are no longer extant, except in the extracts of Photius, who had perused them with care and satisfaction, Cod. ccviii, ccxxv, ccxxvi, ccxxvii, ccxxx, ccixxx, ccixxx.

[i] See the life of John the eleemosynary by his contemporary Leontius, bishop of Neapolis in Cyprus, whose Greek text, either lost or hidden, is reflected in the Latin version of Baronius, (A. D. 610, N°. 9; A. D. 620, N°. 8); Pagi, (Critica, tom. ii, p. 763), and Fabricius, (l. v, c. 11; tom. vii, p. 451), have made some critical observations.

delivered to the catholics, the religion of the Monophysites was proscribed in Egypt, and a law was revived, which excluded the natives from the honours and emoluments of the state. CHAP. XLVII.

A more important conquest still remained, of the patriarch, the oracle and leader of the Egyptian church. Theodosius had resisted the threats and promises of Justinian with the spirit of an apostle or an enthusiast. "Such," replied the patriarch, "were the offers of the "tempter when he shewed the kingdoms of "the earth. But my soul is far dearer to me "than life or dominion. The churches are in "the hands of a prince who can kill the body; "but my conscience is my own; and in exile, "poverty, or chains, I will stedfastly adhere to "the faith of my holy predecessors, Athanasius, Cyril, and Dioscorus. Anathema to "the tome of Léo and the synod of Chalcedon! Anathema to all who embrace their "creed! Anathema to them now and for "evermore! Naked came I out of my mother's womb, naked shall I descend into the "grave. Let those who love God, follow me "and seek their salvation." After comforting his brethren, he embarked for Constantinople, and sustained, in six successive interviews, the almost irresistible weight of the royal presence. His opinions were favourably entertained in the palace and the city; the influence of Theodora assured him a safe conduct and honourable dismission; and he ended his days, though not on the throne, yet in the bosom of his native country. On the news of his death, Apollina- Their separation and decay.

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ris indecently feasted the nobles and the clergy; but his joy was checked by the intelligence of a new election; and while he enjoyed the wealth of Alexandria, his rivals reigned in the monasteries of Thebais, and were maintained by the voluntary oblations of the people. A perpetual succession of patriarchs arose from the ashes of Theodosius; and the Monophysite churches of Syria and Egypt were united by the name of Jacobites and the communion of the faith. But the same faith, which has been confined to a narrow sect of the Syrians, was diffused over the mass of the Egyptian or Coptic nation; who, almost unanimously, rejected the decrees of the synod of Chalcedon. A thousand years were now elapsed since Egypt had ceased to be a kingdom, since the conquerors of Asia and Europe had trampled on the ready necks of a people, whose ancient wisdom and power ascend beyond the records of history. The conflict of zeal and persecution rekindled some sparks of their national spirit. They abjured, with a foreign heresy, the manners and language of the Greeks: every Melchite, in their eyes, was a stranger, every Jacobite a citizen; the alliance of marriage, the offices of humanity, were condemned as a deadly sin; the natives renounced all allegiance to the emperor; and his orders, at a distance from Alexandria, were obeyed only under the pressure of military force. A generous effort might have redeemed the religion and liberty of Egypt, and her six hundred monasteries might have poured forth their myriads of holy warriors, from

whom death should have no terrors, since life had no comfort or delight. But experience has proved the distinction of active and passive courage; the fanatic who endures without a groan the torture of the rack or the stake, would tremble and fly before the face of an armed enemy. The pusillanimous temper of the Egyptians could only hope for a change of masters; the arms of Chosroes depopulated the land; yet under his reign the Jacobites enjoyed a short and precarious respite. The victory of Heraclius renewed and aggravated the persecution, and the patriarch again escaped from Alexandria to the desert. In his flight, Benjamin was encouraged by a voice, which bade him expect, at the end of ten years, the aid of a foreign nation, marked like the Egyptians themselves with the ancient right of circumcision. The character of these deliverers, and the nature of the deliverance, will be hereafter explained; and I shall step over the interval of eleven centuries to observe the present misery of the Jacobites of Egypt. The populous city of Cairo affords a residence or rather a shelter for their indignant patriarch, and a remnant of ten bishops: forty monasteries have survived the inroads of the Arabs; and the progress of servitude and apostacy has reduced the Coptic nation to the despicable number of twenty-five or thirty thousand families; [k] a race of illiterate

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Benjamin the Jacobite patriarch, A. D. 625-661.

[k] This number is taken from the curious Recherches sur les Egyptiens et les Chinois, (tom. ii, p. 192-195), and appears more probable than the 600,000 ancient, or 15,000 modern, Copts of Gemelli Carreri. Cyril Lucar, the protestant patriarch of Constantinople, laments that those heretics were ten times more numerous

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beggars, whose only consolation is derived from the superior wretchedness of the Greek patriarch and his diminutive congregation.[1]

VI. The Abyssinians and Nubians.

VI. The Coptic patriarch, a rebel to the Cæsars, or a slave to the Khalifs, still gloried in the filial obedience of the kings of Nubia and Ethiopia. He repaid their homage by magnifying their greatness; and it was boldly asserted that they could bring into the field an hundred thousand horse with an equal number of camels;[m] that their hand could pour out or restrain the waters of the Nile;[n] and the peace and plenty of Egypt was obtained, even in this world, by the intercession of the patriarch. In exile at Constantinople, Theodosius recommended to his patroness the conversion of the

than his orthodox Greeks, ingeniously applying the πολλαι κεν δεκαδες δενοιατο οινοχοιο of Homer, (Iliad ii, 126), the most perfect expression of contempt, (Fabric. Lux Evangelii, 740).

[1] The history of the Copts, their religion, manners, &c. may be found in the Abbé Renaudot's motley work, neither a translation nor an original; the Chronicon Orientale of Peter, a Jacobite; in the two versions of Abraham Ecchellensis, Paris, 1651; and John Simon Assemani, Venet. 1729. These annals descend no lower than the xiiith century. The more recent accounts must be searched for in the travellers into Egypt, and the Nouveaux Memoires des Missions du Levant. In the last century, Joseph Abudacnus, a native of Cairo, published at Oxford, in thirty pages, a slight Historia Jacobitarum, 117 post 150.

[m] About the year 737. See Renaudot, Hist. Patriarch. Alex. p. 221-222; Elmacin, Hist. Saracen. p. 99.

[n] Ludolph. Hist. Æthiopic. et Comment. l. i, c. 8. Renaudot, Hist. Patriarch. Alex. p. 450, &c. This opinion, introduced into Egypt and Europe by the artifice of the Copts, the pride of the Abyssinians, the fear and ignorance of the Turks and Arabs, has not even the semblance of truth. The rains of Ethiopia do not, in the increase of the Nile, consult the will of the monarch. If the river approaches at Napata, within three days' journey of the Red Sea, (see d'Anville's Maps), a canal that should divert its course would demand, and most probably surpass, the power of the Cæsars.

black nations of Nubia,[o] from the tropic of Cancer to the confines of Abyssinia. Her design was suspected and emulated by the more orthodox emperor. The rival missionaries, a Melchite and a Jacobite, embarked at the same time; but the empress, from a motive of love or fear, was more effectually obeyed; and the catholic priest was detained by the president of Thebais, while the king of Nubia and his court were hastily baptised in the faith of Dioscorus. The tardy envoy of Justinian was received and dismissed with honour; but when he accused the heresy and treason of the Egyptians, the negro convert was instructed to reply that he would never abandon his brethren, the true believers, to the persecuting ministers of the synod of Chalcedon.[p] During several ages, the bishops of Nubia were named and consecrated by the Jacobite patriarch of Alexandria: as late as the twelfth century, Christianity prevailed; and some rites, some ruins, are still visible in the savage towns of Sennaar and Dongola.[q] But the Nubians at length

[o] The Abyssinians, who still preserve the features and olive complexion of the Arabs, afford a proof that two thousand years are not sufficient to change the colour of the human race. The Nubians, an African race, are pure negroes, as black as those of Senegal or Congo, with flat noses, thick lips, and woolly hair, (Buffon, Hist. Naturelle, tom. v, p. 117, 113, 114, 166, 219, edit. in 12mo, Paris, 1769). The ancients beheld, without much attention, the extraordinary phenomenon which has exercised the philosophers and theologians of modern times.

[p] Asseman. Bibliot. Orient. tom. i, p. 329.

[q] The Christianity of the Nubians, A. D. 1153, is attested by the sherif al Edrisi, falsely described under the name of the Nubian geographer, (p. 18), who represents them as a nation of Jacobites. The rays of historical light that twinkle in the history of Renaudot,

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executed their threats of returning to the worship of idols; the climate required the indulgence of polygamy, and they have finally preferred the triumph of the Koran to the abasement of the Cross. A metaphysical religion may appear too refined for the capacity of the negro race: yet a black or a parrot might be taught to repeat the *words* of the Chalcedonian or Monophysite creed.

Church of Abyssinia, A. D. 530, &c.

Christianity was more deeply rooted in the Abyssinian empire; and, although the correspondence has been sometimes interrupted above seventy or an hundred years, the mother-church of Alexandria retains her colony in a state of perpetual pupillage. Seven bishops once composed the Ethiopic synod: had their number amounted to ten, they might have elected an independent primate; and one of their kings was ambitious of promoting his brother to the ecclesiastical throne. But the event was foreseen, the increase was denied; the episcopal office has been gradually confined to the *abuna*,[r] the head and author of the Abyssinian priesthood; the patriarch supplies each vacancy with an Egyptian monk; and the character of a stranger appears more venerable in the eyes of the people, less dangerous in

(p. 178, 220, 224, 281, 286, 405, 434, 451, 464), are all previous to this era. See the modern state in the Lettres Edifiantes, (Recueil iv), and Busching, (tom. ix, p. 152-159, par Berenger).

[r] The abuna is improperly dignified by the Latins with the title of Patriarch. The Abyssinians acknowledge only the four patriarchs, and their chief is no more than a metropolitan or national primate, (Ludolph. Hist. Æthiopic. et Comment. l. iii, c. 7). The seven bishops of Renaudot, (p. 511), who existed A. D. 1131, are unknown to the historian.

those of the monarch. In the sixth century, when the schism of Egypt was confirmed, the rival chiefs, with their patrons, Justinian and Theodora, strove to outstrip each other in the conquest of a remote and independent province. The industry of the empress was again victorious, and the pious Theodora has established in that sequestered church the faith and discipline of the Jacobites.[s] Encompassed on all sides by the enemies of their religion, the Ethiopians slept near a thousand years, forgetful of the world, by whom they were forgotten. They were awakened by the Portuguese, who, turning the southern promontory of Africa, appeared in India and the Red Sea, as if they had descended through the air from a distant planet. In the first moments of their interview, the subjects of Rome and Alexandria observed the resemblance, rather than the difference of their faith; and each nation expected the most important benefits from an alliance with their Christian brethren. In their lonely situation, the Ethiopians had almost relapsed into the savage life. Their vessels, which had traded to Ceylon, scarcely presumed to navigate the rivers of Africa; the ruins of Axume were deserted, the nation was scattered in villages, and the emperor (a pompous name) was content, both in peace and war, with the immove-

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The Portuguese in Abyssinia, A.D. 1525-1550, &c.

[s] I know not why Assemannus (Bibliot. Orient. tom. ii, p. 381) should call in question these probable missions of Theodora into Nubia and Ethiopia. The slight notices of Abyssinia till the year 1500 are supplied by Renaudot (p. 336, 341, 381, 382, 405, 443, &c. 452, 456, 463, 475, 480, 511, 525, 549, 564) from the Coptic writers. The mind of Ludolphus was a perfect blank.

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able residence of a camp. Conscious of their own indigence, the Abyssinians had formed the rational project of importing the arts and ingenuity of Europe;[t] and their ambassadors at Rome and Lisbon were instructed to solicit a colony of smiths, carpenters, tilers, masons, printers, surgeons, and physicians, for the use of their country. But the public danger soon called for the instant and effectual aid of arms and soldiers to defend an unwarlike people from the barbarians who ravaged the inland country, and the Turks and Arabs who advanced from the sea-coast in more formidable array. Ethiopia was saved by four hundred and fifty Portuguese, who displayed in the field the native valour of Europeans, and the artificial powers of the musket and cannon. In a moment of terror, the emperor had promised to reconcile himself and his subjects to the catholic faith; a Latin patriarch represented the supremacy of the pope;[u] the empire, enlarged in a tenfold proportion, was supposed to contain more gold than the mines of America; and the wildest hopes of avarice and zeal were

[t] Ludolph. Hist. Æthiop. l. iv, c. 5. The most necessary arts are now exercised by the Jews, and the foreign trade is in the hands of the Armenians. What Gregory principally admired and envied was the industry of Europe—artes et opificia.

[u] John Bermudez, whose relation, printed at Lisbon 1569, was translated into English by Purchas, (Pilgrims, l. vii, c. 7, p. 1149, &c.) and from thence into French by La Croze, (Christianisme d'Ethiopie, p. 92-265). The piece is curious; but the author may be suspected of deceiving Abyssinia, Rome, and Portugal. His title to the rank of patriarch is dark and doubtful, (Ludolph. Comment. N°. 101, p. 473).

built on the willing submission of the Christians of Africa. CHAP. XLVII.

But the vows which pain had extorted, were forsworn on the return of health. The Abyssinians still adhered with unshaken constancy to the Monophysite faith; their languid belief was inflamed by the exercise of dispute; they branded the Latins with the names of Arians and Nestorians, and imputed the adoration of *four* gods to those who separated the two natures of Christ. Fremona, a place of worship, or rather of exile, was assigned to the Jesuit missionaries. Their skill in the liberal and mechanic arts, their theological learning, and the decency of their manners, inspired a barren esteem; but they were not endowed with the gifts of miracles, [x] and they vainly solicited a reinforcement of European troops. The patience and dexterity of forty years at length obtained a more favourable audience, and two emperors of Abyssinia were persuaded that Rome could ensure the temporal and everlasting happiness of her votaries. The first of these royal converts lost his crown and his life; and the rebel army was sanctified by the *abuna*, who hurled an anathema at the apostate, and absolved his subjects from their oath of fidelity. The fate of Zadenghel was revenged by the courage and fortune of Susneus, who ascended the throne under the name of Segued, and more vigorously

Mission of the Jesuits, A. D. 1557.

[x] Religio Romana . . . . nec precibus patrum nec miraculis ab ipsis editis suffulciebatur, is the uncontradicted assurance of the devout emperor Susneus to his patriarch Mendez, (Ludolph. Comment. N°. 126, p. 529); and such assurances should be preciously kept, as an antidote against any marvellous legends.

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prosecuted the pious enterprise of his kinsman. After the amusement of some unequal combats between the Jesuits and his illiterate priests, the emperor declared himself a proselyte to the synod of Chalcedon, presuming that his clergy and people would embrace without delay the religion of their prince. The liberty of choice was succeeded by a law, which imposed, under pain of death, the belief of the two natures of Christ: the Abyssinians were enjoined to work and to play on the Sabbath; and Segued, in the face of Europe and Africa, renounced his connection with the Alexandrian church. A Jesuit, Alphonso Mendez, the catholic patriarch of Ethiopia, accepted in the name of Urban VIII the homage and abjuration of his penitent. "I confess," said the emperor on his knees, "I confess that the pope is the vicar "of Christ, the successor of St Peter, and the "sovereign of the world. To him I swear "true obedience, and at his feet I offer my "person and kingdom." A similar oath was repeated by his son, his brother, the clergy, the nobles, and even the ladies of the court: the Latin patriarch was invested with honours and wealth; and his missionaries erected their churches or citadels in the most convenient stations of the empire. The Jesuits themselves deplore the fatal indiscretion of their chief, who forgot the mildness of the gospel and the policy of his order, to introduce with hasty violence the liturgy of Rome and the inquisition of Portugal. He condemned the ancient practice of circumcision, which health rather than super-

Conversion of the emperor, A. D. 1626.

stition had first invented in the climate of Ethiopia.[y] A new baptism, a new ordination, was inflicted on the natives; and they trembled with horror when the most holy of the dead were torn from their graves, when the most illustrious of the living were excommunicated by a foreign priest. In the defence of their religion and liberty, the Abyssinians rose in arms, with desperate but unsuccessful zeal. Five rebellions were extinguished in the blood of the insurgents: two abunas were slain in battle, whole legions were slaughtered in the field, or suffocated in their caverns; and neither merit, nor rank, nor sex, could save from an ignominious death the enemies of Rome. But the victorious monarch was finally subdued by the constancy of the nation, of his mother, of his son, and of his most faithful friends. Segued listened to the voice of pity, of reason, perhaps of fear; and his edict of liberty of conscience instantly revealed the tyranny and weakness of the Jesuits. On the death of his father, Basilides expelled the Latin patriarch, and restored to the wishes of the nation the faith and the discipline of Egypt. The Mono-

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[y] I am aware how tender is the question of circumcision. Yet I will affirm, 1. That the Ethiopians have a physical reason for the circumcision of males, and even of females, (Recherches Philosophiques sur les Americains, tom. ii.). 2. That it was practised in Ethiopia long before the introduction of Judaism or Christianity, (Herodot. l. ii, c. 104; Marsham, Canon. Chron. p. 72-73). "Infantes circumcidunt ob consuetudinem non ob Judaismum," says Gregory the Abyssinian priest, (apud Fabric. Lux Christiana, p. 720). Yet, in the heat of dispute, the Portuguese were sometimes branded with the name of uncircumcised, (La Croze, p. 80; Ludolph. Hist. and Comment. l. ii. c. 1.).

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physite churches resounded with a song of triumph, "that the sheep of Ethiopia were now "delivered from the hyenas of the West;" and the gates of that solitary realm were for ever shut against the arts, the science, and the fanaticism of Europe. [z]

Final expulsion of the Jesuits, A. D. 1632, &c.

[z] The three protestant historians, Ludolphus, (Hist. Æthiopica, Francofurt 1681; Commentarius, 1691; Relatio Nova, &c. 1693, in folio); Geddes, (Church History of Ethiopia, London, 1696, in 8vo), and La Croze, (Hist. du Christianisme d'Ethiopie et d'Armenie, La Haye, 1739, in 12mo), have drawn their principal materials from the Jesuits, especially from the General History of Tellez, published in Portuguese at Conimbra, 1660. We might be surprised at their frankness; but their most flagitious vice, the spirit of persecution, was in their eyes their most meritorious virtue. Ludolphus possessed some, though a slight advantage from the Æthiopic language, and the personal conversation of Gregory, a free-spirited Abyssinian priest, whom he invited from Rome to the court of Saxe-Gotha. See the Theologia Æthiopica of Gregory, in Fabricius, Lux Evangelii, p. 716.

Hess

END OF THE EIGHTH VOLUME.

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